

AYH-R8.AGR

08193408

8739/0710 03 001 Page 1 of 78

1998-12-31 15:50:43

Cook County Recorder 175.00



08193408

7759266 82RF 6

AMERICAN YOUTH HOSTELS-CHICAGO, INC.

REDEVELOPMENT AGREEMENT

BY AND BETWEEN

78

THE CITY OF CHICAGO

AND

AMERICAN YOUTH HOSTELS-CHICAGO, INC.  
an Illinois not-for-profit Corporation

Dated As Of December 28, 1998

This agreement was prepared by  
and after recording return to:  
William A. Nyberg, Esq.  
City of Chicago Law Department  
121 North LaSalle Street, Room 600  
Chicago, IL 60602

8000237

BOX 333-CTI

AMERICAN YOUTH HOSTELS-CHICAGO, INC.  
REDEVELOPMENT AGREEMENT  
TABLE OF CONTENTS

	PAGE
ARTICLE ONE: INCORPORATION OF RECITALS .....	3
ARTICLE TWO: INCORPORATION OF DEFINITIONS .....	3
ARTICLE THREE: THE PROJECT .....	3
3.01 <b><u>The Project.</u></b> .....	3
3.02 <b><u>Plans and Specifications.</u></b> .....	3
3.03 <b><u>Project Budget</u></b> .....	4
3.04 <b><u>Change Orders</u></b> .....	4
3.05 <b><u>DPD Approval</u></b> .....	5
3.06 <b><u>Other Approvals</u></b> .....	5
3.07 <b><u>Progress Reports and Survey Updates</u></b> .....	5
3.08 <b><u>Inspecting Agent or Architect</u></b> .....	6
3.09 <b><u>Barricades</u></b> .....	6
3.10 <b><u>Signs and Public Relations.</u></b> .....	6
3.11 <b><u>Utility Connections</u></b> .....	6
3.12 <b><u>Permit Fees</u></b> .....	6
3.13 <b><u>Residential Use</u></b> .....	6
3.14 <b><u>Accessibility for Disabled Persons.</u></b> .....	6
ARTICLE FOUR: FINANCING .....	7
4.01 <b><u>Total Project Cost and Sources of Funds</u></b> .....	7
4.02 <b><u>Developer Funds.</u></b> .....	7
4.03 <b><u>City Funds.</u></b> .....	7
4.04 <b><u>Escrow Agreement.</u></b> .....	10
4.05 <b><u>Treatment of Prior Expenditures and Subsequent Disbursements</u></b> .....	11
4.06 <b><u>Cost Overruns</u></b> .....	11
ARTICLE FIVE: CONDITIONS PRECEDENT .....	11
5.01 <b><u>Project Budget</u></b> .....	12
5.02 <b><u>Approval of Plans and Specifications</u></b> .....	12
5.03 <b><u>Other Governmental Approvals</u></b> .....	12
5.04 <b><u>Financing</u></b> .....	12
5.05 <b><u>Acquisition and Title</u></b> .....	12
5.06 <b><u>Evidence of Clean Title</u></b> .....	13
5.07 <b><u>Surveys</u></b> .....	13
5.08 <b><u>Insurance</u></b> .....	13
5.09 <b><u>Opinion of the Developer's Counsel</u></b> .....	13

5.10 Evidence of Prior Expenditures. ..... 13

5.11 Financial Statements ..... 13

5.12 Additional Documentation ..... 14

5.13 Environmental Audit ..... 14

5.14 Corporate Documents ..... 14

5.15 Litigation ..... 14

5.16 Preconditions of Disbursement ..... 14

5.17 City Mortgage. ..... 15

5.18 Intercreditor Agreement. ..... 16

ARTICLE SIX: AGREEMENTS WITH CONTRACTORS ..... 16

6.01 Bid Requirement for General Contractor and Subcontractors. ..... 16

6.02 Construction Contract ..... 17

6.03 Payment and Performance Bond ..... 17

6.04 Employment Opportunity ..... 17

6.05 Other Provisions ..... 17

ARTICLE SEVEN: COMPLETION OF REHABILITATION ..... 18

7.01 Certificate of Completion of Rehabilitation. ..... 18

7.02 Effect of Issuance of Certificate; Continuing Obligations ..... 18

7.03 Failure to Complete ..... 18

7.04 Notice of Expiration of Term of Agreement ..... 19

ARTICLE EIGHT: REPRESENTATIONS, WARRANTIES AND COVENANTS OF  
THE DEVELOPER. .... 19

8.01 General ..... 19

8.02 Covenant to Redevelop ..... 21

8.03 Redevelopment Plan ..... 21

8.04 Use of City Funds ..... 21

8.05 Other Bonds ..... 21

8.06 Job Creation and Retention; Covenant to Operate; Duration ..... 22

8.07 Employment Opportunity ..... 23

8.08 Employment Profile ..... 24

8.09 Prevailing Wage ..... 24

8.10 Arms-Length Transactions ..... 24

8.11 No Conflict of Interest ..... 24

8.12 Disclosure of Interest ..... 25

8.13 Financial Statements ..... 25

8.14 Insurance ..... 25

8.15 Non-Governmental Charges ..... 25

8.16 Developer's Liabilities ..... 26

8.17 Compliance with Laws ..... 26

8.18 Recording and Filing ..... 26

8.19 Real Estate Provisions. ..... 26

8.20 **Public Benefits Program** ..... 27

8.21 **Public Benefits Status Reports** ..... 27

8.22 **Broker's Fees** ..... 28

8.23 **Survival of Covenants** ..... 28

ARTICLE NINE: REPRESENTATIONS, WARRANTIES AND COVENANTS  
OF CITY ..... 28

9.01 **General Covenants** ..... 28

9.02 **Survival of Covenants** ..... 28

ARTICLE TEN: DEVELOPER'S EMPLOYMENT OBLIGATIONS ..... 28

10.01 **Employment Opportunity** ..... 28

10.02 **City Resident Construction Worker Employment Requirement** ..... 29

10.03 **The Developer's MBE/WBE Commitment** ..... 31

ARTICLE ELEVEN: ENVIRONMENTAL MATTERS ..... 33

11.01 **Environmental Matters.** ..... 33

ARTICLE TWELVE: INSURANCE ..... 33

12.01 **Insurance.** ..... 33

ARTICLE THIRTEEN: INDEMNIFICATION ..... 37

13.01 **General Indemnity** ..... 37

ARTICLE FOURTEEN: MAINTAINING RECORDS/RIGHT TO INSPECT ..... 38

14.01 **Books and Records** ..... 38

14.02 **Inspection Rights** ..... 39

ARTICLE FIFTEEN: DEFAULT AND REMEDIES ..... 39

15.01 **Events of Default** ..... 39

15.02 **Remedies** ..... 40

15.03 **Curative Period** ..... 40

ARTICLE SIXTEEN: MORTGAGING OF THE PROJECT ..... 41

16.01 **Mortgaging of the Project** ..... 41

ARTICLE SEVENTEEN: NOTICES ..... 42

17.01 **Notices.** ..... 42

ARTICLE EIGHTEEN: ADDITIONAL PROVISIONS ..... 43

18.01 **Amendments** ..... 43

18.02 **Complete Agreement, Construction, Modification** ..... 43

18.03 **Limitation of Liability** ..... 43

18.04 **Further Assurances** ..... 44

18.05	<u>Waivers</u>	44
18.06	<u>Remedies Cumulative</u>	44
18.07	<u>Parties in Interest/No Third Party Beneficiaries</u>	44
18.08	<u>Titles and Headings</u>	44
18.09	<u>Counterparts</u>	44
18.10	<u>Severability</u>	44
18.11	<u>Conflict</u>	45
18.12	<u>Governing Law</u>	45
18.13	<u>Form of Documents</u>	45
18.14	<u>Assignment</u>	45
18.15	<u>Binding Effect</u>	45
18.16	<u>Force Majeure.</u>	45
18.17	<u>Schedules and Exhibits.</u>	45
18.18	<u>Business Economic Support Act.</u>	46
18.19	<u>Approval.</u>	46
18.20	<u>Construction of Words</u>	46
18.21	<u>Survival of Agreements</u>	46
18.22	<u>Equitable Relief</u>	46
18.23	<u>Venue and Consent to Jurisdiction</u>	46
18.24	<u>Costs and Expenses</u>	46
18.25	<u>Returned Funds</u>	47
18.26	<u>AYH as Unconditional Guarantor</u>	47

AMERICAN YOUTH HOSTELS-CHICAGO, INC.  
REDEVELOPMENT AGREEMENT  
LIST OF SCHEDULES AND EXHIBITS

~~08193408~~  
08193408

SCHEDULES

Schedule A            Definitions

EXHIBITS

Exhibit A            \*Redevelopment Area Legal Description

Exhibit B            \*Legal Description of Property Acquired

Exhibit C            \*TIF-Funded Improvements

Exhibit D            Redevelopment Plan

Exhibit E            \* Prohibited Uses

Exhibit F            Escrow Agreement

Exhibit G            \*Permitted Liens

Exhibit H-1          \*Project Budget  
Exhibit H-2          MBE/WBE Budget

Exhibit I            Approved Prior Expenditures

Exhibit J            Opinion of Developer's Counsel

Exhibit K            \*\*Subordination Agreement

Exhibit L            \*\*City Mortgage

Exhibit M            Public Benefits Program

Exhibit N            RESERVED

Exhibit O            City of Chicago Insurance Certificate Form

(An asterisk(\*) indicates which exhibits are to be recorded.)  
(Double asterisk (\*\*)) indicates documents to be recorded separately.)

[leave blank 3" x 5" space for recorder's office]

08193408

08193408  
08193408

This agreement was prepared by and  
after recording return to:  
William A. Nyberg, Esq.  
City of Chicago Law Department  
121 North LaSalle Street, Room 600  
Chicago, IL 60602

**AMERICAN YOUTH HOSTELS-CHICAGO, INC.  
REDEVELOPMENT AGREEMENT**

This American Youth Hostels-Chicago, Inc., Redevelopment Agreement (the "**Agreement**") is made as of this 28th day of December, 1998, by and between the City of Chicago, an Illinois municipal corporation (the "**City**"), through its Department of Planning and Development ("**DPD**"), and American Youth Hostels-Chicago, Inc., an Illinois not-for-profit corporation (the "**Developer**"), whose sole member is American Youth Hostels, Inc., a New York not-profit corporation ("**AYH**").

**RECITALS:**

A. **Constitutional Authority:** As a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois (the "**State**"), the City has the power to regulate for the protection of the public health, safety, morals and welfare of its inhabitants, and pursuant thereto, has the power to encourage private development in order to enhance the local tax base, create employment opportunities and to enter into contractual agreements with private parties in order to achieve these goals.

**B. Statutory Authority:** The City is authorized under the provisions of the ~~Tax~~ <sup>08193408</sup> Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq. (1996 State Bar Edition), as amended, (the "**Act**"), to finance projects that eradicate blighted conditions and conservation factors that can lead to blighted conditions through the use of tax increment allocation financing for redevelopment projects.

**C. City Council Authority:** To induce redevelopment pursuant to the Act, the City Council of the City (the "**City Council**") adopted the following ordinances on February 7, 1997: (1) "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the Central Loop Redevelopment Project Area"; (2) "An Ordinance of the City of Chicago, Illinois Designating the Central Loop Redevelopment Project Area as a Redevelopment Project Area Pursuant to Tax Increment Allocation Redevelopment Act"; and (3) "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the Central Loop Redevelopment Project Area" (the "**TIF Adoption Ordinance**") (collectively the three ordinances are referred to herein as the "**TIF Ordinances**"). The redevelopment project area (the "**Redevelopment Area**") is legally described in Exhibit A hereto.

**D. The Project:** The proposed project is located in the Redevelopment Area. Developer will, by the Closing Date, acquire the land, building and adjacent parking lot located at 24 E. Congress Parkway, Chicago, Illinois 60605, and legally described in Exhibit B hereto (the "**Property**"). Within the time periods set forth in Section 3.01, Developer shall: (i) redevelop the building (the "**Building**") and adjacent parking lot located on the Property into: (a) a facility which will contain a 250-bed youth hostel (the "**Youth Hostel**"), and 120 dormitory rooms, with the dormitory rooms initially being leased to Columbia College (Columbia College, along with any replacement tenant, referred to as the "**Tenant**") during the school year, and converted to an additional 250 beds for the Youth Hostel in the peak summer months, and (b) an international student center, and (c) retail space at the street level along Wabash Avenue and Congress Parkway; and (ii) construct certain public infrastructure improvements, including sidewalk vaults and landscape improvements in the surrounding public way (the "**Public Improvements**"). The redevelopment of the Building for the operation of the Youth Hostel on the Property and the use of the Tenant as described above, and the construction of the related Public Improvements (including but not limited to those TIF-Funded Improvements as defined below and as set forth in Exhibit C) are collectively defined herein as the "**Project**". At all times, Developer will hold legal title to the Property and Project. Upon completion of the Project, the Youth Hostel will be operated by Metropolitan Chicago Council, American Youth Hostels, Inc., an Illinois not-for-profit corporation ("**MCC**"), by the Developer, by AYH, or by an Affiliate of the Developer and MCC (any such entity which operates the Youth Hostel is referred to herein as the "**Operator**"). The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

**E. Redevelopment Plan:** The Project will be carried out in accordance with this Agreement and the City of Chicago Central Loop Tax Increment Financing Redevelopment Plan and Project dated January 13, 1997 (the "**Redevelopment Plan**") attached hereto as Exhibit D, as the same may be amended or revised from time-to-time.



F. **City Financing:** The City agrees to use, in the amount set forth in Section 4.03 hereof, (i) a portion of the proceeds (the "**Bond Proceeds**") of its Tax Increment Allocation Bonds (Central Loop Redevelopment Project) Series 1997 (specifically the taxable Series thereof) (the "**Bonds**") issued pursuant to an ordinance adopted by the City Council on July 30, 1997 (the "**Bond Ordinance**"), or (ii) Incremental Taxes (as defined below) in the 1997 Central Loop Project Redevelopment Project Area Special Tax Allocation Fund (as defined below), to pay for or reimburse the Developer for the costs of TIF-Funded Improvements pursuant to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

### AGREEMENT:

#### ARTICLE ONE: INCORPORATION OF RECITALS

1.01 The recitals set forth above are hereby incorporated into this Agreement by reference and made a part hereof.

#### ARTICLE TWO: INCORPORATION OF DEFINITIONS

2.01 The definitions set forth in Schedule A are hereby incorporated into this Agreement by reference and made a part hereof.

#### ARTICLE THREE: THE PROJECT

3.01 **The Project.** Pursuant to the Plans and Specifications, the Developer shall: (i) begin redevelopment construction no later than May 1, 1999; and (ii) complete redevelopment construction (including, but not limited to completion of the Public Improvements) and begin Youth Hostel operation no later than August 1, 2000.

3.02 **Plans and Specifications.** As of the Closing Date, the Developer has delivered the Project schematics and drawings to DPD and DPD has approved them. Developer agrees to complete design/development drawings and final construction drawings and specifications as soon as practicable after the Closing Date and submit them to DPD for initial approval. In particular, architectural plans shall be reviewed by the Landmarks Division of DPD to ensure that any proposed alterations to the building are appropriate and compatible with the building's historic character. Developer must submit design/development drawings to DPD for its approval at least 90 days prior

to the First Construction Disbursement. Developer must submit the final construction drawings and specifications to DPD at least 45 days prior to submitting its draw request for the First Construction Disbursement. Developer understands that it will not make any draw on the Escrow for construction work on the Property until DPD has reviewed and approved all Plans and Specifications. After such initial approval, subsequent proposed changes to the Plans and Specifications shall be submitted to DPD as a Change Order pursuant to Section 3.04 hereof. The Plans and Specifications shall at all times conform to the Redevelopment Plan and all applicable Federal, State and local laws, ordinances and regulations. The Developer shall submit all necessary documents to the City's Department of Buildings, Department of Transportation, and such other City departments or governmental authorities as may be necessary to acquire building permits or other required approvals for the Project.

**3.03 Project Budget.** As of the Closing Date, the Developer has furnished to DPD, and DPD has approved, a Project Budget showing total costs for the Project (inclusive of certain start-up operating costs) in the amount of \$14,000,000. The Developer hereby certifies to the City that: (a) the City Funds, together with the Lender Financing, Equity and a non-refundable deposit by the Tenant, shall be sufficient to pay for all Project costs; and (b) the Project Budget is true, correct and complete in all material respects. The Developer shall promptly deliver to DPD certified copies of any Change Orders with respect to the Project Budget for approval pursuant to Section 3.04 hereof.

**3.04 Change Orders.**

(a) Prior to the Closing Date. Change orders entered into by Developer prior to the Closing Date are included within the definition of Plans and Specifications, and will be approved by DPD as a part of its approval required under Section 5.02 (Approval of Plans and Specifications).

(b) Material Changes. Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to material changes to the Project must be submitted by the Developer to DPD concurrently with the progress reports described in Section 3.07 hereof.

(c) Dollar Limitations. Notwithstanding anything to the contrary in this Section 3.04, Change Orders costing over \$50,000 each require DPD's prior written approval. Notwithstanding anything to the contrary in this Section 3.04, Change Orders costing less than Fifty Thousand Dollars (\$50,000.00) each, to an aggregate amount of Fifty Thousand Dollars (\$50,000.00), do not require DPD's prior written approval as set forth in this Section 3.04, but DPD shall be notified in writing of all such Change Orders concurrently with the progress reports described in Section 3.07 hereof, and the Developer, in connection with such notice, shall identify to DPD the source of funding therefor.

(d) Prior Written Approval for Project Changes. Any Change Orders relating to any of the following must be submitted by the Developer to DPD for DPD's prior written approval:

- (1) a reduction in the aggregate square footage of the Project;
- (2) a change of the use of the Property to a use other than as a Youth Hostel or a dormitory used by the Tenant;
- (3) a Change Order causing or resulting in a 30 day or more delay in the completion of any portion of the Project; or
- (4) a series or group of Change Orders which in the aggregate cause or result in a 30 day or more delay in the completion of any portion of the Project, but some or a substantially portion of which might result in a delay of less than 30 days.

(e) No Work. The Developer shall not authorize or permit the performance of any work relating to any Change Order requiring DPD's prior written approval or the furnishing of materials in connection therewith prior to the receipt by the Developer of DPD's written approval. The Construction Contract, and each contract between the General Contractor and any subcontractor, shall contain a provision to this effect.

(f) No Increase in City Funds. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement, or to provide any other additional assistance to the Developer.

3.05 **DPD Approval**. Any approval granted by DPD of the Plans and Specifications and the Change Orders is for the purposes of this Agreement only, and any such approval does not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval, nor does any such approval by DPD pursuant to this Agreement constitute approval of the quality, structural soundness, safety, habitability or investment quality of the Property or the Project. Developer will not make any verbal or written representation to anyone to the contrary.

3.06 **Other Approvals**. Any DPD approval under this Agreement shall have no effect upon, nor shall it operate as a waiver of, the Developer's obligations to comply with the provisions of Section 5.03 (Other Governmental Approvals) hereof. The Developer will not commence construction of the Project until the Developer obtained all necessary permits and approvals.

3.07 **Progress Reports and Survey Updates**. Beginning with the month immediately following the month in which the Closing Date occurs, on or before the 15th day of each month, the Developer shall provide DPD with written monthly progress reports detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring DPD's written approval pursuant to Section 3.04). The Developer shall provide three (3) copies of an updated Survey to DPD if any updated Survey is provided to any financing source providing Lender Financing.

3.08 **Inspecting Agent or Architect.** An independent agent or architect shall be selected by Developer and approved by DPD to act as the inspecting agent or architect for the Project, and any fees and expenses connected with its work or incurred by such independent agent or architect shall be solely for the Developer's account and shall be promptly paid by Developer. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing written certifications with respect thereto to DPD, prior to requests for disbursement for costs related to the Project.

3.09 **Barricades.** Prior to commencing any construction requiring barricades, the Developer shall have installed a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable Federal, State or City laws, ordinances, rules and regulations. DPD must have approved the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

3.10 **Signs and Public Relations.** The Developer shall erect in a conspicuous location on the Property during the Project, a sign of size and style approved by the City, indicating that financing has been provided by the City. The City shall approve any other signs on the Property. The City reserves the right to include the name, photograph, artistic rendering of the Project and any other pertinent information regarding the Developer, the Property and the Project in the City's promotional literature and communications.

3.11 **Utility Connections.** The Developer may connect all on-site water, sanitary, storm and sewer lines constructed on the Property to City utility lines existing on or near the perimeter of the Property, provided the Developer first complies with all City requirements governing such connections, including the payment of customary fees and costs related thereto.

3.12 **Permit Fees.** In connection with the Project, and subject to Developer's right to seek waivers customarily granted to charitable organizations, the Developer shall be obligated to pay only those building, permit, engineering, tap on and inspection fees that are assessed on a uniform basis throughout the City of Chicago and are of general applicability to other property within the City of Chicago.

3.13 **Residential Use.** If another use of the Project is approved by the City during the Term of the Agreement that includes a housing component, DPD shall review affordability levels in redevelopment areas with housing components to establish appropriate levels for the Project, and review the Project for compliance with the City's affordable housing guidelines then in effect. At least twenty percent (20%) of any such housing units in the Project will be priced for sale by the Developer within affordability levels as established by the City and, if rental housing units, at least 20% shall be leased within affordability levels as established by the City. For the purposes of this section, dormitory and hostel rooms are not considered "housing."

3.14 **Accessibility for Disabled Persons.** Developer acknowledges that it is in the public interest to design, construct and maintain the Project in a manner which promotes, enables, and

maximizes universal access throughout the Property. It is understood and agreed that the Plans and Specifications for all buildings and improvements on and related to the Property have been, or in connection with their submission for approval by the City, shall be, reviewed and approved by the Mayor's Office for People with Disabilities (**MOPD**) to ensure compliance with all applicable laws and regulations related to access for persons with disabilities and to promote the standards of accessibility required by all applicable laws.

#### ARTICLE FOUR: FINANCING

4.01 **Total Project Cost and Sources of Funds.** The budgeted cost of the Project (including certain start-up operating costs) is estimated to be \$14,000,000, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

Equity (subject to <u>Section 4.06</u> )	\$ 1,895,000
Lender Financing (Bond Proceeds)	8,500,000
Non-Refundable Tenant Deposit	75,000
TIF Assistance - (the "Base Amount")	2,250,000*
TIF Assistance - (the "Property Tax Contingency")	1,000,000*
TIF Assistance - (the "Conditional Assistance")	<u>280,000*</u>
<b>ESTIMATED TOTAL SOURCES</b>	<b>\$14,000,000</b>

\* As described in Section 4.03(b) hereof.

4.02 **Developer Funds.** Equity and/or Lender Financing may be used to pay any Project costs, including but not limited to Redevelopment Project Costs and costs of TIF-Funded Improvements.

#### 4.03 **City Funds.**

(a) Uses of City Funds. City Funds (as defined below) may be used to pay directly or reimburse the Developer only for costs of TIF-Funded Improvements. Exhibit C sets forth, by line item, the TIF-Funded Improvements for the Project, and the maximum amount of costs that may be paid by or reimbursed from City Funds for each line item therein (subject to adjustment as provided for in Section 4.05(c) hereof), contingent upon receipt by the City of documentation satisfactory in form and substance to DPD evidencing such cost and its eligibility as a Redevelopment Project Cost.

(b) Sources of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Article 5 hereof, the City hereby agrees to pay directly to or reimburse the Developer for up to a maximum amount of \$3,530,000 of the costs of the TIF-Funded Improvements from Bond Proceeds or Incremental Taxes deposited in the 1997 Central Loop Project

Redevelopment Project Area Special Tax Allocation Fund (the “**City Funds**”), subject to payment of the City Fee, and also subject to the following terms and conditions:

(i) Base Amount. The Base Amount of City funds is \$2,250,000, subject to reduction as set forth in subsection (e) below if the certified, actual total Project costs (“**Actual Project Costs**”) are less than \$14,000,000 for any reason.

(ii) Property Tax Contingency. The total amount of City Funds includes the \$1,000,000 amount of Property Tax Contingency, subject to refund. If the Project receives a total or partial property tax exemption, then the aggregate amount of the resulting cost savings, and any lump sum rebates, will be refunded by Developer to the City until the balance of the Property Tax Contingency is reduced to zero. Any cost savings from property tax exemption will be refunded quarterly by Developer in the ordinary course of business as an accrued payable for the Term of the Agreement. Any lump sum rebate received by Developer will be immediately refunded in full amount to the City, to the extent required above. The cost savings from property tax exemptions to the Developer for any year will be equal to the greater of: (a) the tax savings attributable to the positive difference between the (i) last equalized assessed valuation of the Property prior to the time any exemption was granted and (ii) the applicable equalized assessed valuation of the Property for that year; or (b) the positive difference between the amount budgeted by the Developer for property taxes for that year (as reflected on the pro forma operating budget of the Developer reviewed and approved by DPD prior to the Closing Date) and the actual tax liability of the Developer relating to the Property for that year.

(iii) Conditional Subsidy.

(A) The total amount of City Funds includes the \$280,000 amount of Conditional Subsidy, subject to refund. Developer recognizes and acknowledges that the Conditional Subsidy are funds to be used only if required. In any and all circumstances, the Conditional Subsidy will be paid-out as the last payment from the Escrow, and only if needed. As provided in the Escrow Agreement, the funds for the Conditional Subsidy will not be placed in the Escrow unless needed. In any event, any unused amounts remaining in the Escrow at the completion of the Project will be returned to the City.

(B) The Developer will use its best efforts to raise funds in its capital campaign for the Project until the completion of the Project. Developer has the right to substitute the funds placed in the Escrow as of the Closing Date as Equity with funds raised in its capital campaign for the Project, and such substitute funds will become Equity upon deposit in the Escrow.

(C) When DPD issues a Certificate under Article Seven, a refund calculation for the Conditional Subsidy will also be made. Developer will

immediately refund the Conditional Subsidy, dollar-for-dollar, to the City, or the excess amount will offset the amount of Conditional Subsidy which would otherwise be paid, dollar-for-dollar, if and to the extent that:

(1) Funds raised by the Developer as capital campaign contributions for the Project exceed \$1,895,000; and

(2) Such excess funds have not been otherwise used by Developer to cover Project cost overruns as required by Section 4.06 (Cost Overruns).

(iv) The City Funds shall be available to pay for or reimburse costs related to TIF-Funded Improvements only so long as no Event of Default, or condition or event that with notice or the passage of time or both would constitute an Event of Default, has occurred and has not been cured. In particular, when 25% of the total, direct costs of construction have been incurred, the Developer must provide evidence satisfactory to DPD of Developer's compliance, or strategy to comply, with Section 10.03 hereof, before any further disbursement of City Funds hereunder.

(v) The Developer acknowledges and agrees that the City's obligation to reimburse costs related to TIF-Funded Improvements is contingent upon the fulfillment of all of the conditions set forth above. DPD shall retain the right to approve or reject, in its sole discretion, the designation of any cost in the Project Budget as: (i) a TIF-Funded Improvement, or (ii) a part of the actual total Project costs.

(c) Payments from Escrow. As a measure of the amount of TIF-Funded Improvements for which the City has agreed to pay or reimburse the Developer hereunder, the City shall pay, or reimburse the Developer, an amount up to 23.00% of the Actual Project Costs, including those costs which have been incurred prior to the Closing Date and approved by the City hereunder, provided however, that such 23.00% limit will be adjusted upward if all or any part of the \$280,000 amount of the Conditional Subsidy is disbursed through the Escrow. In general, City Funds will be disbursed on a pro rata basis with Lender Financing and Equity, subject to the 23% limitation, less the 15% retainage described in Section 4.03(d). Although any disbursement of City Funds through the Escrow may exceed 23.00% of the aggregate amount being so disbursed at a particular time, the aggregate amount of City Funds disbursed through the Escrow hereunder shall not exceed the percentage limitation of 23.00% of Actual Project Costs (subject to adjustment), up to a maximum of \$3,530,000. City Funds may be paid on the Closing Date through the Escrow but only if, prior to the Closing Date, DPD shall have confirmed to its satisfaction the balances of invested Equity and Lender Financing.

(d) Retainage. Fifteen percent (15%) of each payment of City Funds to the Developer will be retained by the City to provide for the possibility that the Actual Project Costs will be less than \$14,000,000 for any reason. However, the payment made by the City to the Developer on the Closing Date to partially fund the acquisition of the Property will not be subject to a retainage; an

amount equal to fifteen percent of such amount paid by the City on the Closing Date, which would otherwise have been retained, will be retained by the City in four equal installments from the first four construction disbursements from the Escrow in addition to the amounts otherwise retained. If the Actual Project Costs are \$14,000,000 or more, then the City will pay retainage amounts to the Developer, so that, in the aggregate, the Developer will receive the full amount due under Section 4.03(b) above. However, no funds retained by the City shall be paid to the Developer prior to the issuance of a Certificate. Specifically, funds are to be retained until the City has been satisfied that the requirements of Section 10.03 hereunder have been met.

(e) Recalculation.

(i) The Base Amount of \$2,250,000 to be paid to Developer under Section 4.03(b) above was calculated based on a Project Budget of \$14,000,000, subject to recalculation as provided in this paragraph.

(ii) For purposes of this paragraph, the Project Budget will be adjusted downward to reflect the amount of the Conditional Subsidy not used by Developer, after taking into account the refund calculations in Section 4.03(b)(iii). For example, if none of the Conditional Subsidy was used by Developer, then the Project Budget would be adjusted downward by \$280,000 and the adjusted budget amount would be \$13,720,000 (\$14,000,000 less \$280,000). As a second example, if Developer originally used \$280,000 in Conditional Subsidy and then refunded \$100,000, then the adjusted budget amount would be \$13,900,000 (\$14,000,000 less \$100,000). The sum resulting from the adjustment to the Project Budget contemplated in this sub-section is defined as the "**Adjusted Budget Amount**".

(iii) If the Actual Project Costs are less than the Adjusted Budget Amount for any reason, then the aggregate amount of the Base Amount to be paid to Developer hereunder will be recalculated and reduced by 23% of the difference between the Adjusted Budget Amount and the Actual Project Costs. For example, if the Actual Project Costs are \$12,720,000 and the Adjusted Budget Amount is \$13,720,000, then the Base Amount would be reduced by \$230,000. (\$13,720,000 less \$12,720,000 equals \$1,000,000 multiplied by 23% equals \$230,000).

(iv) In the event of a reduction in the aggregate amount of Base Amount to be paid hereunder, the City may offset such reduction by keeping, to the extent necessary, the City Funds **retained** by the City under Section 4.03(d), above. Also, if, after taking into account any reduction in the aggregate amount of Base Amount, the Developer has received a greater amount of City Funds than is provided for herein, then the Developer shall repay such excess amounts to the City immediately.

4.04 **Escrow Agreement.** All disbursements of City Funds shall be made through the funding of draw requests with respect thereto (which may be made no more frequently than monthly) pursuant to the Escrow Agreement, a form of which is attached as Exhibit F hereto, and



this Agreement. In case of any conflict between the terms of this Agreement and the Escrow Agreement, the terms of this Agreement shall control.

~~08193408~~  
08193408

4.05 **Treatment of Prior Expenditures and Subsequent Disbursements.**

(a) **Prior Expenditures.** Only those expenditures made by the Developer with respect to the Project prior to the Closing Date, evidenced by documentation satisfactory to DPD and approved by DPD as satisfying costs covered in the Project Budget, shall be considered previously contributed Equity or Lender Financing hereunder (the "**Prior Expenditure(s)**"). DPD shall have the right, in its sole discretion, to disallow any such expenditure as a Prior Expenditure. Exhibit I hereto sets forth the prior expenditures approved by DPD as Prior Expenditures. Prior Expenditures made for items other than TIF-Funded Improvements shall not be reimbursed to the Developer, but shall reduce the amount of Equity and/or Lender Financing required to be contributed by the Developer pursuant to Section 4.01 hereof.

(b) **City Fee.** The City may annually allocate an amount, not to exceed twenty percent (20%) of the Incremental Taxes deposited in the 1997 Central Loop Project Redevelopment Project Area Special Tax Allocation Fund, as a fee (the "**City Fee**"); for payment of costs incurred by the City in the administration and monitoring of the Redevelopment Area. The Developer shall not be required to pay the City Fee, and the City Fee shall be disbursed from the 1997 Central Loop Project Redevelopment Project Area Special Tax Allocation Fund prior to the disbursement of City Funds to reimburse the Developer hereunder for TIF-Funded Improvements.

(c) **Allocation Among Line Items.** Disbursements for expenditures related to TIF-Funded Improvements may be allocated to and charged against the appropriate line only, with transfers of costs and expenses from one line item to another being prohibited, without the prior express written consent of DPD; provided, however, that such transfers among line items, in an amount not to exceed \$50,000 or \$250,000 in the aggregate, may be made without the prior written consent of DPD.

4.06 **Cost Overruns.** Developer is responsible for management of the Project and the administration of the Project Budget. All cost overruns are the sole responsibility of the Developer. In particular, if the aggregate cost of the TIF-Funded Improvements exceeds City Funds available pursuant to Section 4.03 hereof, the Developer shall be solely responsible for such excess costs, and shall hold the City harmless from any and all costs and expenses of completing the TIF-Funded Improvements in excess of City Funds.

**ARTICLE FIVE: CONDITIONS PRECEDENT**

The following conditions shall be complied with to the City's satisfaction within the time periods set forth below or, if no time period is specified, prior to the Closing Date:

5.01 **Project Budget.** The Developer shall have submitted to DPD, and DPD shall have approved, a Project Budget and Construction Budget in accordance with the provisions of Section 3.03 hereof.

5.02 **Approval of Plans and Specifications.** The Developer shall have submitted to DPD, and DPD shall have approved, the Project schematics in accordance with the provisions of Section 3.02 hereof.

5.03 **Other Governmental Approvals.** Not less than five (5) business days prior to the First Construction Disbursement, the Developer shall have secured all other necessary approvals and permits required by any Federal, State, or local statute, ordinance, rule or regulation and shall submit evidence thereof to DPD.

5.04 **Financing.** The Developer shall have furnished proof acceptable to the City that the Developer has Equity, Lender Financing and the non-refundable Tenant deposit in the amounts set forth in Section 4.01 hereof to complete the Project and satisfy its obligations under this Agreement. If a portion of such financing consists of Lender Financing, the Developer shall have furnished proof as of the Closing Date that the proceeds thereof are available to be drawn upon by the Developer as needed (subject to customary restrictions relating to disbursements from time to time) and are sufficient (along with the Equity and other sources set forth in Section 4.01) to complete the Project. To the extent required by the City, any liens against the Property in existence at the Closing Date (other than those described below) shall be subordinated to those encumbrances of the City set forth in Section 7.02(c) hereof pursuant to a subordination agreement, in the form attached hereto as Exhibit K, acceptable to the City, executed on or prior to the Closing Date, which is to be recorded, at the expense of the Developer, in the Office of the Recorder of Deeds of Cook County; provided, however, that any liens against the Property arising in connection with the Lender Financing (or any assignees or transferees of the holders of such liens) shall be subordinated only to those encumbrances of the City set forth in Section 8.06(e) hereof pursuant to a subordination agreement, acceptable to the City and to such lienholder, which is to be recorded as described above.

5.05 **Acquisition and Title.** On the Closing Date, the City shall disburse City Funds in an amount not to exceed \$667,000 to reimburse, in whole or in part, the cost of the Developer of the purchase price of the Property. The Developer shall furnish the City with a copy of the Title Policy for the Property, certified by the Title Company in at least the amount of the City Funds, showing the Developer as the named insured. The Title Policy shall be dated as of the Closing Date and shall contain only those title exceptions listed as Permitted Liens on Exhibit G hereto and shall evidence the recording of this Agreement pursuant to the provisions of Section 8.18 (Recording and Filing hereof). This title policy shall also contain such endorsements as shall be required by Corporation Counsel, including but not limited to an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1), contiguity, location, access and survey. Prior to the Closing Date, the Developer shall provide DPD with documentation related to the acquisition of the Property, and certified copies of all easements and encumbrances of record with request to the Property not addressed, to DPD's satisfaction, by the Title Policy and any endorsements thereto.

5.06 **Evidence of Clean Title.** Not less than five (5) Business Days prior to the Closing Date, the Developer, at its own expense, shall have provided the City with current searches under the Developer's name, the Operator's name (and the following trade name of the Developer and the Operator: Hostelling International), as follows:

Secretary of State	UCC search
Secretary of State	Federal tax search
Cook County Recorder	UCC search
Cook County Recorder	Fixtures search
Cook County Recorder	Federal tax search
Cook County Recorder	State tax search
Cook County Recorder	Memoranda of judgments search
U.S. District Court	Pending suits and judgments
Clerk of Circuit Court, Cook County	Pending suits and judgments

showing no liens against the Developer, Operator, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens.

5.07 **Surveys.** Not less than five (5) Business Days prior to the Closing Date, the Developer shall have furnished the City with three (3) copies of the Survey.

5.08 **Insurance.** The Developer, at its own expense, shall have insured the Property in accordance with Article 12 hereof. At least five (5) Business Days prior to the Closing Date, certificates required pursuant to Article 12 hereof evidencing the required coverages shall have been delivered to DPD.

5.09 **Opinion of the Developer's Counsel.** On the Closing Date, the Developer shall furnish the City with an opinion of counsel, substantially in the form attached hereto as Exhibit J, with such changes as may be required by or acceptable to Corporation Counsel. If the Developer has engaged special counsel in connection with the Project, and such special counsel is unwilling or unable to give some of the opinions set forth in Exhibit J hereto, such opinions shall be obtained by the Developer from its general corporate counsel.

5.10 **Evidence of Prior Expenditures.** Not less than twenty (20) Business Days prior to the Closing Date, the Developer shall have provided evidence satisfactory to DPD in its sole discretion of the Prior Expenditures in accordance with the provisions of Section 4.05(a) hereof.

5.11 **Financial Statements.** Not less than thirty (30) days prior to the Closing Date, the Developer shall have provided Financial Statements to DPD for its 1998 fiscal year if available, and its most recently available interim financial statements (meeting the same definitional requirements as the Financial Statements).

5.12 **Additional Documentation.** The Developer shall have provided documentation to DPD, satisfactory in form and substance to DPD, with respect to current employment matters.

5.13 **Environmental Audit.** The Developer has provided DPD with copies of that certain Phase I environmental audit completed with respect to the Property. Based on the City's review thereof, the City will require additional formal testing with respect to the Property prior to the Closing Date. Based on the results of such additional formal testing, the City may require the completion of a Phase II Environmental Audit. The City reserves the right to terminate negotiations with respect to this Agreement if, in the City's view, such audits reveal the existence of material environmental problems. Prior to the Closing Date, the Developer shall provide the City with a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits.

5.14 **Corporate Documents.** The Developer shall provide a copy of its Certificate or Articles of Incorporation, as amended, or other organization documents with all amendments, containing the original certification of the Secretary of State of its state of organization; certificates of good standing from the Secretary of State of its state of organization and all other states in which the Developer is qualified to do business; a secretary's certificate in such form and substance as the Corporation Counsel may require; and such other organizational documentation as the City may request.

5.15 **Litigation.** The Developer shall provide to Corporation Counsel and DPD, at least ten (10) Business Days prior to the Closing Date, a description of all pending or threatened litigation or administrative proceedings involving the Developer or the Operator specifying, in each case, the amount of each claim, an estimate of probable liability, the amount of any reserves taken in connection therewith and whether (and to what extent) such potential liability is covered by insurance.

5.16 **Preconditions of Disbursement.**

(a) Prior to each disbursement of City Funds hereunder, the Developer shall submit documentation of such expenditures to DPD, which shall be satisfactory to DPD in its sole discretion. Delivery by the Developer to DPD of any request of disbursement of City Funds hereunder shall, in addition to the items therein expressly set forth, constitute a certification to the City, as of the **date** of such request for disbursement, that:

(i) the total amount of the disbursement request represents the actual amount payable to (or paid to) the General Contractor and/or subcontractors who have performed work on the Project, and/or their payees;

(ii) all amounts shown as previous payments on the current disbursement request have been paid to the parties entitled to such payment;

(iii) the Developer has approved all work and materials for the current disbursement request, and such work and materials conform to the Plans and Specifications;

(iv) the representations and warranties contained in this Agreement are true and correct and the Developer is in compliance with all covenants contained herein;

(v) the Developer has received no notice and has no knowledge of any liens or claim of lien either filed or threatened against the Property except for the Permitted Liens;

(vi) no Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default exists or has occurred; and

(vii) the Project is In Balance. The Project shall be deemed to be in balance ("**In Balance**") only if the total of the available Project funds equals or exceeds the aggregate of the amount necessary to pay all unpaid Project costs incurred or to be incurred in the completion of the Project. "**Available Project Funds**" as used herein shall mean: (i) the undisbursed City Funds; (ii) the undisbursed Lender Financing; (iii) the undisbursed Equity and (iv) any other amounts deposited by the Developer pursuant to this Agreement, including the Non-Refundable Tenant Deposit described in Section 4.01. The Developer hereby agrees that, if the Project is not In Balance, the Developer shall, within 10 days after a written request by the City, deposit with the City or the escrow agent, cash in an amount that will place the Project In Balance, which deposit shall first be exhausted before any further disbursement of the City Funds shall be made.

(b) Additionally, the Developer shall have satisfied all other preconditions of disbursement of City Funds for each disbursement, including but not limited to, requirements set forth in the TIF Ordinances, and/or this Agreement. The City shall have the right, in its discretion, to require the Developer to submit further documentation as the City may require in order to verify that the matters certified to in subsection (a) above are true and correct, and any disbursement by the City shall be subject to the City's review and approval of such documentation and its satisfaction that such certifications are true and correct.

5.17 **City Mortgage.** In order to secure the Developer's compliance with its repayment obligations under Sections 4.03 and 8.06 of this Agreement (the "**Repayment Obligation**"), the Developer shall, on the Closing Date, execute a junior mortgage on the Property, in the form attached hereto as Exhibit L, in favor of the City (the "**City Mortgage**"), which City Mortgage shall be recorded in the office of the Recorder of Deeds of Cook County at the Developer's expense. The City Mortgage will be security for the Developer's repayment of City Funds in the amount of the Repayment Obligation, in the event the Developer breaches its covenants to: (i) complete the Project, as required in Section 8.02 hereof, (ii) create jobs or operate as required in Section 8.06 hereof, or (iii) repay amounts pursuant to Section 4.03(b)(ii), Section 4.03(b)(iii), and Section 4.03(e) above. The amount initially secured by the City Mortgage is \$3,530,000, which is subject to reduction as

provided herein. In no event shall the Repayment Obligation, or the amount secured by the City Mortgage, exceed \$3,530,000.

5.18 **Intercreditor Agreement.** To the extent deemed necessary or advisable by DPD, and as requested by any financing source providing Lender Financing, the City and any financing source providing Lender Financing may enter into an agreement regarding the respective rights and obligations of the parties thereto regarding the Lender Financing and the City Mortgage, in form and substance satisfactory to the source providing Lender Financing and to the City and consistent with the terms and provisions of this Agreement. Such agreement shall contain provisions regarding the extent to which the lien under the City Mortgage shall be subordinate to any lien under such Lender Financing, or any replacement financing. Any such agreement may set forth the relative rights of the parties thereto with respect to the priority of their liens and their rights to pursue remedies, and may include "standstill" arrangements or other limitations on the City's rights hereunder and under the City Mortgage, and limitations on the ability of the City to be paid by the Developer hereunder while the Lender Financing remains outstanding.

## ARTICLE SIX: AGREEMENTS WITH CONTRACTORS

6.01 **Bid Requirement for General Contractor and Subcontractors.** (a) Except as set forth in Section 6.01(b) below, or as otherwise approved by DPD, prior to entering into an agreement with a general contractor (the "**General Contractor**") or any subcontractor for construction of the Project, the Developer shall solicit, or has solicited, or shall cause, or has caused, the General Contractor to solicit, bids from qualified contractors eligible to do business with the City, and shall submit all bids received to DPD for its inspection and written approval as follows:

- (i) For the TIF-Funded Improvements, the Developer shall select, or has selected, the General Contractor (or shall cause, or has caused, the General Contractor to select the subcontractor) submitting the lowest responsible bid who can complete the Project in a timely manner. If the Developer selects, or has selected, a General Contractor (or the General Contractor selects, or has selected, any subcontractor) submitting other than the lowest responsible bid for the TIF-Funded Improvements, the difference between the lowest responsible bid and the bid selected may not be reimbursed from City Funds;
- (ii) For Project work other than the TIF-Funded Improvements, if the Developer selects, or has selected, a General Contractor (or the General Contractor selects, or has selected, any subcontractor) who has not submitted the lowest responsible bid, the difference between the lowest responsible bid and the higher bid selected shall be subtracted from the Actual total Construction Costs for purposes of the calculation of the amount of City Funds to be contributed to the Project pursuant to Section 4.03(b) hereof.

The Developer shall submit copies of the Construction Contract to DPD in accordance with Section 6.02 below. Photocopies of all subcontracts entered or to be entered into in connection with the TIF-Funded Improvements have been provided with respect to existing subcontracts and shall be provided to DPD within five (5) Business Days of the execution of future subcontracts. The Developer shall have ensured that the General Contractor shall not (and shall have caused the General Contractor to ensure that the subcontractors shall not) begin work on the Project until all requisite permits have been obtained based on Plans and Specifications that are found acceptable to DPD.

(b) If, prior to entering into an agreement with a General Contractor for construction of the Project, the Developer does not solicit bids pursuant to Section 6.01(a) hereof, then the fee of the General Contractor proposed to be paid out of City Funds shall be limited to ten percent (10%) of the total amount of the Construction Contract. Except as explicitly stated in this paragraph, all other provisions of Section 6.01(a) shall apply, including but not limited to the requirement that the General Contractor shall solicit competitive bids from all subcontractors.

**6.02 Construction Contract.** Prior to the commencement of construction, the Developer shall deliver to DPD a copy of the proposed Construction Contract with the General Contractor selected for the Project in accordance with Section 6.01 above, for DPD's written approval. Such approval shall be granted or denied within ten (10) Business Days after delivery thereof. The Developer shall deliver to DPD and Corporation Counsel a certified copy of such contract together with any modifications, amendments or supplements thereto.

**6.03 Payment and Performance Bond.** For construction work in connection with any public improvements or work on the public way, including the Public Improvements, Developer shall require that the General Contractor be bonded for its payment and performance obligations by surety(s) having an AA rating or better using American Institute of Architect's Form No. A311 or its equivalent. The City shall be named as obligee or co-obligee on such bond, and on any other payment or performance bond required by a lender providing Lender Financing.

**6.04 Employment Opportunity.** The Developer shall contractually obligate and cause the General Contractor and each subcontractor to agree to the provisions of Article 10 hereof.

**6.05 Other Provisions.** Except as otherwise agreed by DPD, in addition to the requirements of this Article 6, the Construction Contract and each contract with any subcontractor shall contain, or in separate written acknowledgments or undertakings as approved by DPD there shall be contained, provisions required pursuant to Section 3.04 (Change Orders), Section 8.09 (Prevailing Wage), Section 10.01(e) (Employment Opportunity), Section 10.02 (City Resident Construction Worker Employment Requirement), Article 12 (Insurance) and Section 14.01 (Books and Records) hereof. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD prior to the Closing Date with respect to such contracts and subcontracts then existing and thereafter within five (5) Business Days of the execution thereof.

**ARTICLE SEVEN: COMPLETION OF REHABILITATION****7.01 Certificate of Completion of Rehabilitation.**

(a) Upon completion of the Project in accordance with the terms of this Agreement, and after the final disbursement from the Escrow, and upon the Developer's written request, DPD shall issue to the Developer a certificate of completion in recordable form (the "**Certificate**") certifying that the Developer has fulfilled its obligation to complete the Project in accordance with the terms of this Agreement. DPD shall respond to the Developer's written request for a Certificate within forty-five (45) days by issuing either a Certificate or a written statement detailing the ways in which the Project does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by the Developer in order to obtain the Certificate. The Developer may resubmit a written request for a Certificate upon completion of such measures.

**7.02 Effect of Issuance of Certificate; Continuing Obligations.**

(a) The Certificate relates only to the rehabilitation of the Project, and upon its issuance, the City will certify that the terms of the Agreement specifically related to the Developer's obligation to complete such activities have been satisfied.

(b) After the issuance of the Certificate, any and all executory terms and conditions of this Agreement and all representations and covenants contained herein will continue to remain in full force and effect throughout the Term of the Agreement as to:

(i) the Developer; or

(ii) a permitted assignee of the Developer who, pursuant to Section 18.14 (Assignment), has contracted to take an assignment of the Developer's rights and assume the Developer's liabilities under this Agreement.

The issuance of the Certificate shall not be construed under any circumstances as an express or implied waiver by the City of any of its rights and remedies pursuant to such executory term.

(c) Those covenants specifically described at Section 8.02 (Covenant to Redevelop) and Section 8.06 (Job Creation and Retention; Covenant to Operate) are covenants that run with the land. Such covenants are intended to bind Developer and any transferee of the Property throughout the Term of the Agreement notwithstanding the issuance of a Certificate, except as set forth in Section 5.04 hereof, with respect to certain entities with liens on the Property.

**7.03 Failure to Complete.** If the Developer fails to timely complete the Project in accordance with the terms of this Agreement, then the City has, but shall not be limited to, any of the following rights and remedies:



(a) the right to terminate this Agreement and cease all disbursement of City Funds not yet disbursed pursuant hereto;

(b) the right (but not the obligation) to complete those TIF-Funded Improvements that are public improvements and to pay for the costs of TIF-Funded Improvements (including interest costs) out of City Funds or other City monies. In the event that the aggregate cost of completing the TIF-Funded Improvements exceeds the amount of City Funds available pursuant to Section 4.01, the Developer shall reimburse the City for all reasonable costs and expenses incurred by the City in completing such TIF-Funded Improvements in excess of the available City Funds; and

(c) the right to seek reimbursement of the City Funds from the Developer, to the extent provided in Section 5.17, provided that the City is entitled to rely on an opinion of counsel that such reimbursement will not jeopardize the tax-exempt status, if any, of any Bonds.

**7.04 Notice of Expiration of Term of Agreement.** Upon the expiration of the Term of the Agreement, DPD shall provide the Developer, at the Developer's written request, with a written notice in recordable form stating that the Term of the Agreement has expired.

## **ARTICLE EIGHT: REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE DEVELOPER.**

**8.01 General.** Unless otherwise specified in this section, the Developer represents, warrants and covenants as of the date of this Agreement and as of the date of each disbursement of City Funds hereunder, that:

(a) the Developer is an Illinois not-for-profit corporation, duly organized, validly existing, qualified to do business in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required, and has Federal tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986.

(b) the Developer has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) the execution, delivery and performance by the Developer of this Agreement has been duly authorized by all necessary action, and does not and will not violate the Articles of Incorporation or by-laws of Developer, as amended and supplemented, any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or document to which the Developer is now a party or by which the Developer or any of its assets is now or may become bound;

(d) unless otherwise permitted pursuant to the terms of this Agreement, or unless the Commissioner of DPD provides its prior written consent to permit otherwise, the Developer shall

acquire and maintain good, indefeasible and merchantable title to the Property, free and clear of all liens (except for the Permitted Liens, Lender Financing as disclosed in the Project Budget, Non-Governmental Charges that the Developer is contesting in good faith pursuant to Section 8.15 hereof, liens permitted under Section 8.01(j) hereof, and any other liens (other than those arising in connection with Governmental Charges) which arise after the issuance of a Certificate);

(e) the Developer is now and for the Term of the Agreement shall remain solvent and able to pay its debts as they mature;

(f) there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the Developer which would impair its ability to perform under this Agreement;

(g) the Developer has and shall maintain all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct, complete and operate the Project;

(h) the Developer is not in default with respect to any indenture, loan agreement, mortgage, deed, note or any other agreement or instrument related to the borrowing of money to which the Developer is a party or by which the Developer or any of its assets is bound;

(i) the Financial Statements are, and when hereafter required to be submitted will be, complete, correct in all material respects and accurately present the assets, liabilities, results of operations and financial condition of the Developer; and, until the date when all disbursements of City Funds hereunder have been made, there has been no material adverse change in the assets, liabilities, results of operations or financial condition of the Developer since the date of the Developer's most recent Financial Statements;

(j) prior to the issuance of a Certificate, the Developer shall not do any of the following without the prior written consent of DPD: (1) be a party to any merger, liquidation or consolidation; (2) subject to Section 8.01(d), sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of its interest in the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto), except in the ordinary course of business (which shall include the lease of dormitory rooms to the Tenant); (3) enter into any transaction outside the ordinary course of the Developer's business; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity; or (5) enter into any transaction that would cause a material and detrimental change to the Developer's financial condition;

(k) the Developer has not incurred, and, prior to the issuance of a Certificate shall not, without the prior written consent of the Commissioner of DPD, (A) allow the existence of any liens against the Property other than the Permitted Liens or (B) incur any indebtedness, secured or to be

secured by the Property or any fixtures now or hereafter attached thereto, except Lender Financing disclosed in the Project Budget.

(l) the Developer has not made or caused to be made, directly or indirectly, any payment, gratuity or offer of employment in connection with the Agreement or any contract paid from the City treasury or pursuant to City ordinance, for services to any City agency ("**City Contract**") as an inducement for the City to enter into the Agreement or any City Contract with the Developer in violation of Chapter 2-156-120 of the Municipal Code of the City.

(m) Developer will not materially modify, amend or consent to any material modification or amendment of any document evidencing or securing the Lender Financing without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed.

**8.02 Covenant to Redevelop.** With DPD's approval of the Plans and Specifications and the Project Budget as provided in Sections 3.02 and 3.03 hereof, and the Developer's receipt of all required building permits and governmental approvals, the Developer shall redevelop the Property in accordance with this Agreement and all exhibits attached hereto, the TIF Ordinances, the Plans and Specifications, the Project Budget and all amendments thereto, and all Federal, State and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project, the Property and/or the Developer. The covenants set forth in this Section 8.02 shall run with the land for the Term of the Agreement and be binding upon any transferee (except as set forth in Section 5.04 hereof).

**8.03 Redevelopment Plan.** The Developer represents that the Project is and shall be in compliance with all of the terms of the Redevelopment Plan.

**8.04 Use of City Funds.** City Funds disbursed to the Developer shall be used by the Developer solely to pay for or to reimburse the Developer for its payment for the TIF-Funded Improvements as provided in this Agreement.

**8.05 Other Bonds.** The Developer shall, at the request of the City, agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole and absolute discretion) any bonds (the "**New Bonds**") in connection with the Redevelopment Area, the proceeds of which are to be used to reimburse the City for expenditures made in connection with the TIF-Funded Improvements, or otherwise for use in the Redevelopment Area; provided, however, that any such amendments shall not have a material adverse effect on the Developer or the Project. The Developer shall, at the Developer's expense, cooperate and provide reasonable assistance in connection with the marketing of any such New Bonds, including but not limited to providing written descriptions of the Project, making representations, providing information regarding its financial condition and assisting the City in preparing an offering statement with respect thereto.

8.06 Job Creation and Retention; Covenant to Operate; Duration.

08193408

(a) The Developer shall create and retain, or cause Operator to create and retain, jobs from the date of Project opening until February 7, 2007 for not less than 25 Full-Time Equivalents (it being understood that the job retention covenants for the Youth Hostel shall not apply during any such period that the Youth Hostel is not in operation due to necessary repair or rehabilitation work).

(b) The Youth Hostel shall not cease to operate as a youth hostel and dormitory in the manner described in this Agreement for a continuous period of time of more than twelve (12) months. The space standard used to measure Building occupancy is the square footage of the Building usable for the hostel and the dormitory, excluding common areas such as lobbies and hallways. The time standard used to measure Building occupancy is the calendar year, provided, however, that for the dormitory, periods such as holidays when the dormitory would be substantially or fully unoccupied, will be excluded. Under such standards, Developer will have violated this covenant if, for a continuous period of more than 12 months, the following Building square footage would be occupied:

- (i) For the Youth Hostel;
  - a. Year 1 of operation: under 35%
  - b. Year 2 of operation and thereafter: under 50%
- (ii) For the Dormitory:
  - a. Year 1 of operation and thereafter: under 50%.

The Developer has the right to replace the Tenant without the consent of the City, if the new Tenant will use the applicable portion of the Building as a dormitory. The Developer will give to the City prompt written notice of the replacement of any Tenant.

(c) For the Term of the Agreement, without the prior written consent of DPD, the Developer shall not:

- (i) change the use of any portion of the Building from the uses set forth in the Plans and Specifications; or,
- (ii) change the ownership of all or any portion of the Building, or the management of the Youth Hostel, to any entity other than the Operator; or,
- (iii) reduce the number of hostel rooms in an amount which would change the proportion of hostel rooms to dormitory rooms by more than 25% of the amounts described herein.

(d) The City Funds being provided hereunder are a conditional grant from the City, and these funds are subject to being returned to the City in the event the Developer fails to comply with certain

obligations under this Agreement. If the Youth Hostel is not in operation as described above for a continuous period of time of more than twelve (12) months, or if the actual number of jobs created and retained is less than the number specified in subsection (a) above, the City shall have the right, in its discretion, to terminate this Agreement, and the Developer shall be obligated to return to the City all City Funds received hereunder, and any future payments of City Funds by the City hereunder shall not be made; provided, however, that the amount that the Developer must return to the City pursuant to Section 4.03(b)(ii) (Property Tax Contingency) hereunder will be reduced on or after February 7, 2007 to equal the amount, if any, that the Developer must return to the City pursuant to Section 4.03(b)(ii) (Property Tax Contingency) hereof on that date, and the amount to be returned will not be increased by any tax savings (as calculated in Section 4.03(b)(ii)) which take place after February 7, 2007; provided, further, that all other amounts to be returned to the City shall be calculated as follows:

<u>Time Period</u>	<u>Amount</u>
Period beginning on the Closing Date and ending on the fourth anniversary of the issuance of a Certificate	All amounts to be returned to the City (except for those to be returned pursuant to <u>Section 4.03(b)(ii)</u> (Property Tax Contingency) hereof)
Fourth anniversary of Certificate issuance to Fifth anniversary of Certificate issuance	75% of above amount
Fifth anniversary of Certificate issuance to Sixth anniversary of Certificate issuance	50% of above amount
Sixth anniversary of Certificate issuance to Seventh anniversary of Certificate issuance	25% of above amount
Seventh anniversary of Certificate issuance	\$0

These reduced amounts will then be in effect throughout the Term of the Agreement.

(e) The Building and the Property will not be used for any of the purposes set forth on Exhibit E hereto, without the prior written consent of DPD.

(f) The covenants set forth in this Section 8.06 shall run with the land, for the Term of the Agreement, and be binding on any transferee (except as set forth in Section 5.04 hereof).

**8.07 Employment Opportunity.** The Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in Section 8.09 (Prevailing Wage) and Article 10 (Developer's Employment Obligations) hereof. The Developer shall deliver to the City written progress reports detailing compliance with the requirements of Sections 8.09, (Prevailing Wage)

10.02 (City Residence Construction Worker Employment Requirement) and 10.03 (the Developer's MBE/WBE Commitment) of this Agreement. Such reports shall be delivered to the City every month until the Project has been completed: If any such reports indicate a shortfall in compliance, the Developer shall also deliver a plan to DPD which shall outline, to DPD's satisfaction, the manner in which the Developer shall correct any shortfall. Prior to the Closing Date, the Developer, the General Contractor (if any has been engaged) and all major subcontractors (if any have been engaged) shall be required to meet with the monitoring staff of DPD with regard to the Developer's plan to achieve its obligations under this Agreement, and as mandated by City ordinance and DPD policy. When engaged, and prior to the start of construction, the General Contractor and all major subcontractors shall meet with the monitoring staff of DPD with regard to the Developer's plan to achieve its obligations under this Agreement, and as mandated by City Ordinance and DPD policy.

**8.08 Employment Profile.** The Developer shall submit, and contractually obligate and cause the General Contractor or any subcontractor to submit, to DPD, from time to time, and at least once every calendar year, during the Term of this Agreement statements of its employment profile (which must include information regarding job creation and retention as required in Section 8.06) upon DPD's request.

**8.09 Prevailing Wage.** The Developer covenants and agrees to pay, and cause and/or to contractually obligate the General Contractor and each subcontractor to pay, the prevailing wage rate as ascertained by the State Department of Labor (the "**Department**"), to all Project employees. All such contracts shall list or abide by the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If the Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's request, the Developer shall provide the City with copies of all such contracts entered into by the Developer or the General Contractor, or other suitable written documentation to evidence compliance with this Section 8.09.

**8.10 Arms-Length Transactions.** Unless DPD shall have given its prior written consent with respect thereto, no Affiliate of the Developer may receive any portion of City Funds, directly or indirectly, in payment for work done, services provided or materials supplied in connection with any TIF-Funded Improvement. The Developer shall provide information with respect to any entity to receive City Funds directly or indirectly (whether through payment to the Affiliate by the Developer and reimbursement to the Developer for such costs using City Funds, or otherwise), upon DPD's request, **prior** to any such disbursement.

**8.11 No Conflict of Interest.** Pursuant to Section 5/11-74.4-4(n) of the Act, the Developer represents, warrants and covenants that, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City or the Developer with respect thereto, owns or controls, has owned or controlled or will own or control any interest, and no such person shall represent any person, as agent or otherwise, who owns or controls, has owned or controlled, or will

own or control any interest, direct or indirect, in the Developer's business, the Property or any other property in the Redevelopment Area or the Project.

8.12 **Disclosure of Interest.** The Developer's counsel has no direct or indirect financial ownership interest in the Developer, the Property or any other feature of the Project.

8.13 **Financial Statements.** The Developer shall obtain and provide to DPD Financial Statements for the Developer's fiscal year ended March 31, 1998 and each March 31st thereafter for the Term of the Agreement.

8.14 **Insurance.** The Developer, solely at its own expense, shall comply with all provisions of Article 12 hereof.

8.15 **Non-Governmental Charges.**

(a) **Payment of Non-Governmental Charges.** Except for the Permitted Liens, the Developer agrees to pay or cause to be paid when due any Non-Governmental Charge assessed or imposed upon the Project, the Property or any fixtures that are or may become attached thereto, which creates, may create, or appears to create a lien upon all or any portion of the Property or Project; provided however, that if such Non-Governmental Charge may be paid in installments, the Developer may pay the same together with any accrued interest thereon in installments as they become due and before any fine, penalty, interest, or cost may be added thereto for nonpayment. The Developer shall furnish to DPD, within thirty (30) days of DPD's request, official receipts from the appropriate entity, or other proof satisfactory to DPD, evidencing payment of the Non-Governmental Charge in question.

(b) **Right to Contest.** The Developer shall have the right, before any delinquency occurs:

- (i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the Property (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend the Developer's covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this Section 8.15); or
- (ii) at DPD's sole option, to furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property or any portion thereof or any fixtures that are or may be attached thereto, during the pendency of such contest, adequate to pay fully any such contested Non-Governmental Charge and all interest and penalties upon the adverse determination of such contest.

8.16 **Developer's Liabilities.** The Developer shall not enter into any transaction that would materially and adversely affect its ability to perform its obligations hereunder or to repay any material liabilities or perform any material obligations of the Developer to any other person or entity. The Developer shall immediately notify DPD of any and all events or actions which may materially affect the Developer's ability to carry on its business operations or perform its obligations under this Agreement or any other documents and agreements.

8.17 **Compliance with Laws.** To the best of the Developer's knowledge, after diligent inquiry, the Property and the Project are and shall be in compliance with all applicable Federal, State and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project and the Property; provided, however, that any violations existing on the date hereof are expected to be corrected in the course of the construction of the Project. Upon the City's request, the Developer shall provide evidence satisfactory to the City of such compliance.

8.18 **Recording and Filing.** The Developer shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed on the date hereof in the conveyance and real property records of Cook County. The Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, the Developer shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

8.19 **Real Estate Provisions.**

(a) **Governmental Charges.**

- (i) **Payment of Governmental Charges.** Subject to Developer's right to pursue waivers of fees and a property tax exemption, the Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon the Developer, the Property or the Project, or become due and payable, and which create, may create, or appear to create a lien upon the Developer or all or any portion of the Property or the Project to the extent of its legal or contractual obligation under the Lease or otherwise. "**Governmental Charge**" shall mean all Federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances relating to the Developer, the Property or the Project, including but not limited to real estate taxes.
- (ii) **Right to Contest.** The Developer shall have the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of the Property. No such contest or objection shall be deemed or construed in any way as relieving,



modifying or extending the Developer's covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless the Developer has given prior written notice to DPD of the Developer's intent to contest or object to a Governmental Charge and, unless, at DPD's sole option:

- (x) the Developer shall demonstrate to DPD's satisfaction that legal proceedings instituted by the Developer contesting or objecting to a Governmental Charge shall conclusively operate to prevent or remove a lien against, or the sale or forfeiture of, all or any part of the Property to satisfy such Governmental Charge prior to final determination of such proceedings, and/or;
- (y) the Developer shall furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property during the pendency of such contest, adequate to pay fully any such contested Governmental Charge and all interest and penalties upon the adverse determination of such contest.

(b) Developer's Failure To Pay Or Discharge Lien. If the Developer fails to pay any Governmental Charge or to obtain discharge of the same, the Developer shall advise DPD thereof in writing, at which time DPD may, but shall not be obligated to, and without waiving or releasing any obligation or liability of the Developer under this Agreement, in DPD's sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which DPD deems advisable. All sums so paid by DPD, if any, and any expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be promptly disbursed to DPD by the Developer. Notwithstanding anything contained herein to the contrary, this paragraph shall not be construed to obligate the City to pay any such Governmental Charge. Additionally, if the Developer fails to pay any Governmental Charge, the City, in its sole discretion, may require the Developer to submit to the City audited Financial Statements at the Developer's own expense.

8.20 Public Benefits Program. Developer shall undertake after the completion of the Facility, a continuing public benefits program ("**Public Benefits Program**") consisting of a scholarship program for disadvantaged students and youth at the Facility. The scholarship program is described in Exhibit M.

8.21 Public Benefits Status Reports. On a semi-annual basis, the Developer shall provide the City with a status report describing in sufficient detail Developer's compliance with the Public Benefits Program.

8.22 **Broker's Fees.** Developer has no liability or obligation to pay any fees or commissions to any broker, finder, or agent with respect to the transactions contemplated by this Agreement for which the City could become liable or obligated.

8.23 **Survival of Covenants.** All warranties, representations, covenants and agreements of the Developer contained in this Article Eight and elsewhere in this Agreement shall be true, accurate and complete at the time of the Developer's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and (except as provided in Article Seven hereof upon the issuance of a Certificate) shall be in effect throughout the Term of the Agreement.

## ARTICLE NINE: REPRESENTATIONS, WARRANTIES AND COVENANTS OF CITY

9.01 **General Covenants.** The City represents that it has the authority as a home rule unit of local government to execute and deliver this Agreement and to perform its obligations hereunder.

9.02 **Survival of Covenants.** All warranties, representations, and covenants of the City contained in this Article Nine or elsewhere in this Agreement shall be true, accurate, and complete at the time of the City's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and be in effect throughout the Term of the Agreement.

## ARTICLE TEN: DEVELOPER'S EMPLOYMENT OBLIGATIONS

10.01 **Employment Opportunity.** The Developer, on behalf of itself and its successors and assigns, hereby agrees, and shall contractually obligate its or their various contractors, subcontractors or any Affiliate of the Developer operating on the Property (collectively, with the Developer, such parties are defined herein as the "**Employers**", and individually defined herein as an "**Employer**") to agree, that for the Term of this Agreement with respect to Developer and during the period of any other party's provision of services in connection with the construction of the Project or occupation of the Property:

(a) No **Employer** shall discriminate against any employee or applicant for employment based upon race, **religion**, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, **military discharge status**, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., Municipal Code, except as otherwise provided by said ordinance and as amended from time-to-time (the "**Human Rights Ordinance**"). Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner

with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

(b) To the greatest extent feasible, each Employer is required to present opportunities for training and employment of low- and moderate-income residents of the City and preferably of the Redevelopment Area; and to provide that contracts for work in connection with the construction of the Project be awarded to business concerns that are located in, or owned in substantial part by persons residing in, the City and preferably in the Redevelopment Area.

(c) Each Employer shall comply with all Federal, State and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the City's Human Rights Ordinance and the State Human Rights Act, 775 ILCS 5/1-101 et. seq. (1996 State Bar Edition, as amended), and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this Section, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of Federal, State and municipal agencies.

(e) Each Employer shall include the foregoing provisions of subparagraphs (a) through (d) in every contract entered into in connection with the Project, and shall require **inclusion** of these provisions in every subcontract entered into by any subcontractors, and every agreement with any Affiliate operating on the Property, so that each such provision shall be binding upon each contractor, subcontractor or Affiliate, as the case may be.

(f) Failure to comply with the employment obligations described in this Section 10.01 shall be a basis for the City to pursue remedies under the provisions of Section 15.02 hereof.

**10.02 City Resident Construction Worker Employment Requirement.** The Developer agrees for itself and its successors and assigns, and shall contractually obligate its General Contractor and shall cause the General Contractor to contractually obligate its subcontractors, as applicable, to agree, that during the construction of the Project they shall comply with the minimum percentage of total worker hours performed by actual residents of the City as specified in Section 2-92-330 of the Municipal Code of Chicago (at least 50 percent of the total worker hours worked by persons on the site of the Project shall be performed by actual residents of the City); provided, however, that in addition to complying with this percentage, the Developer, its General Contractor and each

subcontractor shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions.

The Developer may request a reduction or waiver of this minimum percentage level of Chicagoans as provided for in Section 2-92-330 of the Municipal Code of Chicago in accordance with standards and procedures developed by the Purchasing Agent of the City.

The phrase "**actual residents of the City**" shall mean persons domiciled within the City. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

The Developer, the General Contractor and each subcontractor shall provide for the maintenance of adequate employee residency records to show that actual Chicago residents are employed on the Project. Each Employer shall maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) shall be submitted to the Commissioner of DPD in triplicate, which shall identify clearly the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the Employer hired the employee should be written in after the employee's name.

The Developer, the General Contractor and each subcontractor shall provide full access to their employment records to the Purchasing Agent, the Commissioner of DPD, the Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. The Developer, the General Contractor and each subcontractor shall maintain all relevant personnel data and records for a period of at least three (3) years after final acceptance of the work constituting the Project.

At the direction of DPD, affidavits and other supporting documentation will be required of the Developer, the General Contractor and each subcontractor to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

Good faith efforts on the part of the Developer, the General Contractor and each subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Purchasing Agent) shall **not suffice** to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

The willful falsification of statements and the certification of payroll data may subject the Developer, the General Contractor and/or the subcontractors to prosecution.

When work at the Project is completed, in the event that the City has determined that the Developer has failed to ensure the fulfillment of the requirement of this Section concerning the worker hours performed by actual Chicago residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1 percent (0.0005) of the aggregate hard construction costs set forth in the Project budget (the product of .0005 x such aggregate approved contract value for the actual contracts) shall be surrendered by the Developer to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject the Developer, the General Contractor and/or the subcontractors to prosecution. Any retainage to cover contract performance that may become due to the Developer pursuant to Section 2-92-250 of the Municipal Code of Chicago may be withheld by the City pending the Purchasing Agent's determination as to whether the Developer must surrender damages as provided in this paragraph.

Nothing herein provided shall be construed to be a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246," or other affirmative action required for equal opportunity under the provisions of this Agreement or related documents.

The Developer shall cause or require the provisions of this Section 10.02 to be included in all construction contracts and subcontracts related to the Project.

**10.03 The Developer's MBE/WBE Commitment.** The Developer agrees for itself and its successors and assigns, and, if necessary to meet the requirements set forth herein, shall contractually obligate the General Contractor to agree that, during the Project:

a. Consistent with the findings which support the Minority-Owned and Women-Owned Business Enterprise Procurement Program (the "**MBE/WBE Program**"), Section 2-92-420 et seq., Municipal Code of Chicago, and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this Section 10.03, during the course of the Project, at least the following percentages of the MBE/WBE Budget shall be expended for contract participation by MBEs or WBEs:

- i. At least 25 percent by MBEs.
- ii. At least 5 percent by WBEs.

b. For purposes of this Section 10.03 only, the Developer (and any party to whom a contract is let by the Developer in connection with the Project) shall be deemed a "contractor" and this

Agreement (and any contract let by the Developer in connection with the Project) shall be deemed a "contract" as such terms are defined in Section 2-92-420, Municipal Code of Chicago.

c. Consistent with Section 2-92-440, Municipal Code of Chicago, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the Developer), or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of: (i) the MBE or WBE participation in such joint venture; or, (ii) the amount of any actual work performed on the Project by the MBE or WBE), by the Developer utilizing a MBE or a WBE as a General Contractor (but only to the extent of any actual work performed on the Project by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Project to one or more MBEs or WBEs, or by the purchase of materials used in the Project from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Developer's MBE/WBE commitment as described in this Section 10.03. The Developer or the General Contractor may meet all or part of this commitment through credits received pursuant to Section 2-92-530 of the Municipal Code of Chicago for the voluntary use of MBEs or WBEs in its activities and operations other than the Project.

d. The Developer shall deliver monthly reports to DPD during the Project describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports shall include inter alia the name and business address of each MBE and WBE solicited by the Developer or the General Contractor to work on the Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the Project, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist DPD in determining the Developer's compliance with this MBE/WBE commitment. DPD shall have access to the Developer's books and records, including, without limitation, payroll records, books of account and tax returns, and records and books of account in accordance with Article 14 of this Agreement, on five (5) Business Days' notice, to allow the City to review the Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Project.

e. Upon the disqualification of any MBE or WBE General Contractor or subcontractor, if such status was **misrepresented** by the disqualified party, the Developer shall be obligated to discharge or **cause to be discharged** the disqualified General Contractor or subcontractor and, if possible, **identify and engage** a qualified MBE or WBE as a replacement. For purposes of this Subsection (e), **the disqualification** procedures are further described in Section 2-92-540, Municipal Code of Chicago.

f. Any reduction or waiver of the Developer's MBE/WBE commitment as described in this Section 10.03 shall be undertaken in accordance with Section 2-92-450, Municipal Code of Chicago.

g. Prior to the Closing Date, the Developer, the General Contractor (if any has been engaged) and all major subcontractors (if any have been engaged) shall be required to meet with the

monitoring staff of DPD with regard to the Developer's compliance with its obligations under this Section 10.03. During this meeting, the Developer shall demonstrate to DPD its plan to achieve its obligations under this Section 10.03, the sufficiency of which shall be approved by DPD. During the Project, the Developer shall submit the documentation required by this Section 10.03 to the monitoring staff of DPD. Failure to submit such documentation on a timely basis, or a determination by DPD, upon analysis of the documentation, that the Developer is not complying with its obligations hereunder shall, upon the delivery of written notice to the Developer, be deemed an Event of Default hereunder. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to the Developer to halt the Project, (2) withhold any further payment of any City Funds to the Developer or the General Contractor, or (3) seek any other remedies against the Developer available at law or in equity.

## ARTICLE ELEVEN: ENVIRONMENTAL MATTERS

11.01 **Environmental Matters**. The Developer hereby represents and warrants to the City that the Developer has conducted environmental studies sufficient to conclude that the Project may be constructed, completed and operated in accordance with all Environmental Laws and this Agreement and all Exhibits attached hereto, the Plans and Specifications and all amendments thereto, the Bond Ordinance, if any, and the Redevelopment Plan.

Without limiting any other provisions hereof, the Developer agrees to indemnify, defend and hold the City harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of the Developer: (i) the presence of any Hazardous Materials on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Materials from: (A) all or any portion of the Property, or (B) any other real property in which the Developer, or any person directly or indirectly controlling, controlled by or under common control with the Developer, holds any estate or interest whatsoever (including, without limitation, any property owned by a land trust in which the beneficial interest is owned, in whole or in part, by the Developer), or (ii) any liens against the Property permitted or imposed by any Environmental Laws, or any actual or asserted liability or obligation of the City or the Developer or any of its Affiliates under any Environmental Laws relating to the Property.

## ARTICLE TWELVE: INSURANCE

12.01 **Insurance**. The Developer shall provide and maintain, or cause to be provided and maintained, at the Developer's own expense, during the Term of this Agreement, the insurance coverages and requirements specified below, insuring all operations related to the Agreement.

08193408  
08193408

(a) Prior to Execution and Delivery of this Agreement

(i) Workers' Compensation and Employers Liability Insurance

08193408

Workers Compensation and Employers Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Agreement and Employers Liability coverage with limits of not less than \$100,000 each accident or illness.

(ii) Commercial General Liability Insurance (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages shall include the following: All premises and operations, products/completed operations, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(b) Construction. Prior to the construction of any portion of the Project, the Developer shall cause its architects, contractors, sub-contractors, project managers and other parties constructing the Project to procure and maintain the following kinds and amounts of insurance:

(i) Workers Compensation and Employers Liability Insurance

Workers Compensation and Employers Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Agreement and Employers Liability coverage with limits of not less than \$500,000 each accident or illness.

(ii) Commercial General Liability Insurance (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages shall include the following: All premises and operations, products/completed operations (for a minimum of two (2) years following Project completion), explosion, collapse, underground, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.



(iii) Automobile Liability Insurance (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Developer shall cause each contractor to provide Automobile Liability Insurance with limits of not less

than \$2,000,000 per occurrence for bodily injury and property damage. The City is to be named as an additional insured on a primary, non-contributory basis.

(iv) Railroad Protective Liability Insurance

When any work is to be done adjacent to or on railroad or transit property, contractor shall provide, or cause to be provided with respect to the operations that the contractor performs, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy shall have limits of not less than \$2,000,000 per occurrence and \$6,000,000 in the aggregate for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

(v) All Risk Builders Risk Insurance

When the contractor undertakes any construction, including improvements, betterments, and/or repairs, the Developer shall cause each contractor to provide, or cause to be provided All Risk Blanket Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the Project. Coverages shall include but are not limited to the following: collapse, boiler and machinery if applicable, flood including surface water backup. The City shall be named as an additional insured and loss payee.

(vi) Professional Liability

When any architects, engineers, construction managers or other professional consultants perform work in connection with this Agreement, the Developer shall cause such parties to maintain Professional Liability Insurance covering acts, errors, or omissions shall be maintained with limits of not less than \$1,000,000. Coverage shall include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work performed in connection with this Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

(vii) Valuable Papers Insurance

When any plans, designs, drawings, specifications and documents are produced or used under this Agreement by the Developer's architects, contractors, sub-contractors, project managers and other parties constructing the Project, the Developer shall cause such parties to maintain Valuable Papers Insurance shall be maintained in an amount to insure against any loss whatsoever, and shall have limits sufficient to pay for the re-creations and reconstruction of such records.

(viii) Contractor's Pollution Liability

When any environmental remediation work is performed which may cause a pollution exposure, Developer shall cause the party performing such work to maintain contractor's Pollution Liability insurance with limits of not less than \$1,000,000 insuring bodily injury, property damage and environmental remediation, cleanup costs and disposal. When policies are renewed, the policy retroactive date must coincide with or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of one (1) year. The City is to be named as an additional insured on a primary, non-contributory basis.

(c) Other Requirements

- (i) The Developer will furnish the City of Chicago, Department of Planning and Development, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance evidencing the required coverage to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the Term of this Agreement. The Developer shall submit evidence of insurance on the City Insurance Certificate Form (Exhibit O hereto) or equivalent prior to Agreement award. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from the Developer shall not be deemed to be a waiver by the City. The Developer shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance shall not relieve the Developer of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to terminate this Agreement until proper evidence of insurance is provided.

- (ii) The insurance shall provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.
- (iii) Any and all deductibles or self insured retentions on referenced insurance coverages shall be borne by the Developer.
- (iv) The Developer agrees that insurers shall waive rights of subrogation against the City, its employees, elected officials, agents, or representatives.
- (v) The Developer expressly understands and agrees that any coverages and limits furnished by the Developer shall in no way limit the Developer's liabilities and responsibilities specified within the Agreement documents or by law.
- (vi) The Developer expressly understands and agrees that the Developer's insurance is primary and any insurance or self insurance programs maintained by the City shall not contribute with insurance provided by the Developer under the Agreement.
- (vii) The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.
- (viii) The Developer shall require its general contractor, and all subcontractors to provide the insurance required herein or Developer may provide the coverages for the contractor, or subcontractors. All contractors and subcontractors shall be subject to the same requirements of Developer unless otherwise specified herein.
- (ix) If the Developer, contractor or subcontractor desires additional coverages, the Developer, Contractor and each subcontractor shall be responsible for the acquisition and cost of such additional protection.
- (x) The City Risk Management Department maintains the right to modify, delete, alter or change these requirements, so long as such action does not, without the Developer's prior written consent, increase such requirements.

### ARTICLE THIRTEEN: INDEMNIFICATION

13.01 **General Indemnity.** Developer agrees to indemnify, pay and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an "**Indemnatee**," and

collectively the "**Indemnitees**") harmless from and against, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever, including, without limitation, any of the foregoing which may arise or be a result of any trade secret, trademark, trade name or copyright infringement (and including, without limitation, the reasonable fees and disbursements of counsel for such Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnitees shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnitees in any manner relating to or arising out of:

- (i) the Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement; or
- (ii) the Developer's or any contractor's failure to pay General Contractors, subcontractors or materialmen in connection with the TIF-Funded Improvements or any other Project improvement; or
- (iii) the existence of any material misrepresentation or omission in this Agreement, any offering memorandum or information statement or the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by the Developer or any Affiliate of Developer or any agents, employees, contractors or persons acting under the control or at the request of the Developer or any Affiliate of Developer; or
- (iv) the Developer's failure to cure any misrepresentation in this Agreement or any other agreement relating hereto;

provided, however, that Developer shall have no obligation to an Indemnitee arising from the wanton or willful misconduct of that Indemnitee. To the extent that the preceding sentence may be unenforceable because it is violative of any law or public policy, Developer shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law, to the payment and satisfaction of all indemnified liabilities incurred by the Indemnitees or any of them. The provisions of the undertakings and indemnification set out in this Section 13.01 shall survive the termination of this Agreement.

#### **ARTICLE FOURTEEN: MAINTAINING RECORDS/RIGHT TO INSPECT**

14.01 **Books and Records.** The Developer shall keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual costs of the Project and the disposition of all funds from whatever source allocated thereto, and to monitor the Project. All such books, records and other documents, including but not limited to the Developer's loan statements, if any, General Contractors' and contractors' sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices, shall be

available at the Developer's offices for inspection, copying, audit and examination by an authorized representative of the City, at the Developer's expense. The Developer shall incorporate this right to inspect, copy, audit and examine all books and records into all contracts entered into by the Developer with respect to the Project.

14.02 **Inspection Rights.** Upon three (3) Business Days' notice, any authorized representative of the City shall have access to all portions of the Project and the Property during normal business hours for the Term of the Agreement.

## ARTICLE FIFTEEN: DEFAULT AND REMEDIES

15.01 **Events of Default.** The occurrence of any one or more of the following events, subject to the provisions of Section 15.03, shall constitute an "Event of Default" by the Developer hereunder:

(a) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under this Agreement, the City Mortgage or any related agreement;

(b) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under any other agreement with any person or entity if such failure may have a material adverse effect on the Developer's business, property, assets, operations or condition, financial or otherwise;

(c) the making or furnishing by the Developer to the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any respect;

(d) except as otherwise permitted hereunder, the creation (whether voluntary or involuntary) of, or any attempt to create, any lien or other encumbrance upon the Property, including any fixtures now or hereafter attached thereto, other than the Permitted Liens, or the making or any attempt to make any levy, seizure or attachment thereof;

(e) the commencement of any proceedings in bankruptcy by or against the Developer or for the liquidation or reorganization of the Developer, or alleging that the Developer is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of the Developer's debts, whether under the United States Bankruptcy Code or under any other state or Federal law, now or hereafter existing for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving the Developer; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;

(f) the appointment of a receiver or trustee for the Developer, for any substantial part of the Developer's assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of the Developer; provided, however, that if such appointment or commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within sixty (60) days after the commencement thereof;

(g) the entry of any judgment or order against the Developer which remains unsatisfied or undischarged and in effect for sixty (60) days after such entry without a stay of enforcement or execution;

(h) the occurrence of an event of default under the Lender Financing, which default is not cured within any applicable cure period;

(i) the dissolution of the Developer or the death of any person who owns a material interest in the Developer; or

(j) the institution in any court of a criminal proceeding (other than a misdemeanor) against the Developer, which is not dismissed within thirty (30) days, or the indictment of the Developer, for any crime (other than a misdemeanor).

15.02 **Remedies.** Upon the occurrence of an Event of Default, the City may terminate this Agreement and any or all related agreements, may suspend disbursement of City Funds, impose the Repayment Obligation and pursue the City Mortgage. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to injunctive relief pursuant to Section 18.22 (Equitable Relief) or the specific performance of the agreements contained herein.

15.03 **Curative Period.** In the event the Developer shall fail to perform a monetary covenant which the Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Developer shall have failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant. In the event the Developer shall fail to perform a non-monetary covenant which the Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Developer shall have failed to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, the Developer shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

**ARTICLE SIXTEEN: MORTGAGING OF THE PROJECT**

16.01 **Mortgaging of the Project.** Any and all mortgages or deeds of trust in place as of the date hereof with respect to the Property or any portion thereof are listed on Exhibit G hereto (including but not limited to mortgages made prior to or on the date hereof in connection with Lender Financing) and are referred to herein as the "**Existing Mortgages.**" Any mortgage or deed of trust that the Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof without obtaining the prior written consent of the City is referred to herein as a "**New Mortgage.**" Any mortgage or deed of trust that the Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof with the prior written consent of the City is referred to herein as a "**Permitted Mortgage.**" It is hereby agreed by and between the City and the Developer as follows:

(a) In the event that a mortgagee or any other party shall succeed to the Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under a mortgage or deed of trust (other than an Existing Mortgage or a Permitted Mortgage) whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with Section 18.14 hereof, the City may, but shall not be obligated to, attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement and, unless so recognized by the City as the successor in interest, such party shall be entitled to no rights or benefits under this Agreement, but such party shall be bound by those provisions of this Agreement that are covenants expressly running with the land.

(b) In the event that any mortgagee or any other party shall succeed to the Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under an Existing Mortgage or a Permitted Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with Section 18.14 hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "the Developer" hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of the Developer's interest under this Agreement, such party shall have:

(i) no personal liability under this Agreement, and in case of default hereunder by such party, the City shall look solely to the interest of such party in the Property; and

(ii) no liability under this Agreement for any Event of Default of the Developer which accrued prior to the time such party succeeded to the interest of the Developer under this Agreement, in which case the Developer shall be solely responsible.

However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of the Developer's interest hereunder, such party shall be entitled to no rights

and benefits under this Agreement, and such party shall be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land and set forth in Section 8.06 hereof.

(c) Prior to the issuance by the City to the Developer of a Certificate pursuant to Article 7 hereof, no New Mortgage shall be executed by Developer without the prior written consent of the Commissioner of DPD.

#### ARTICLE SEVENTEEN: NOTICES

17.01 **Notices.** All notices and any other communications under this Agreement will: (A) be in writing; (B) be sent by: (i) telecopier/fax machine, (ii) delivered by hand, (iii) delivered by an overnight courier service which maintains records confirming the receipt of documents by the receiving party, or (iv) registered or certified U.S. Mail, return receipt requested; (c) be given at the following respective addresses:

If to the City:

City of Chicago  
Department of Planning and Development  
Attn: Commissioner  
121 North LaSalle Street, Room 1000  
Chicago, IL 60602  
312/744-4471 (Main No.)  
312/744-7669 (Fax)

With Copies To:

City of Chicago  
Corporation Counsel  
Attn: Finance and Economic Development  
Division  
121 North LaSalle Street, Room 600  
Chicago, IL 60602  
312/744-0200 (Main No.)  
312/744-8538 (Fax)

If to the Developer:

American Youth Hostels - Chicago, Inc.  
c/o American Youth Hostels, Inc.  
Attn: Executive Director  
733 15th Street, NW  
Suite 840  
Washington, D.C. 20005  
202/783-6161 (Main No.)  
202/783-6171 (Fax)



With Copies To:

Anthony R. Licata, Esq.  
Shefsky & Froelich Ltd.  
444 North Michigan Avenue  
Chicago, Illinois 60611  
312/527-4000 (Main No.)  
312/527-9285 (Fax)

08193408

08193408

or at such other address or telecopier/fax or telephone number or to the attention of such other person as the party to whom such information pertains may hereafter specify for the purpose in a notice to the other specifically captioned "Notice of Change of Address" and, (D) be effective or deemed delivered or furnished: (i) if given by telecopier/fax, when such communication is confirmed to have been transmitted to the appropriate telecopier/fax number specified in this section, and confirmation is deposited into the U.S. Mail, postage prepaid to the recipient's address shown herein; (ii) if given by hand delivery or overnight courier service, when left at the address of the addressee, properly addressed as provided above.

#### ARTICLE EIGHTEEN: ADDITIONAL PROVISIONS

18.01 **Amendments.** This Agreement and the Schedules and Exhibits attached hereto may not be modified or amended except by an agreement in writing signed by the parties; provided, however, that the City in its discretion, and without the consent of any other entity or person, may amend, modify or supplement the Redevelopment Plan, which is Exhibit D hereto.

18.02 **Complete Agreement, Construction, Modification.** This Agreement, including any schedules, exhibits and the other agreements, documents and instruments referred to herein or contemplated hereby, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous negotiations, commitments and writings with respect to such subject matter. It is agreed that no material amendment or change shall be made or be effective unless ratified or authorized by an ordinance duly adopted by the City Council of the City. The term "material" for the purpose of this Section 18.02 shall be defined as any deviation from the terms of the Agreement which operates to cancel or otherwise reduce any developmental, construction or job-creating obligations of Developer by more than five percent (5%) or materially changes the Site or character of the Project or any activities undertaken by Developer affecting the Site, the Project, or both, or increases any time agreed for performance by the Developer by more than ninety (90) days.

18.03 **Limitation of Liability.** No member, elected or appointed official or employee or agent of the City shall be individually, collectively or personally liable to the Developer or any successor in interest to Developer in the event of any default or breach by the City or for any amount which may become due to the Developer or any successor in interest, from the City or on any obligation under the terms of this Agreement.

18.04 **Further Assurances.** Developer agrees to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may become necessary or appropriate to carry out the terms, provisions and intent of this Agreement, and to accomplish the transactions contemplated in this Agreement.

18.05 **Waivers.** No party hereto shall be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by such party. No delay or omission on the part of a party in exercising any right shall operate as a waiver of such right or any other right unless pursuant to the specific terms hereof. A waiver by a party of a provision of this Agreement shall not prejudice or constitute a waiver of such party's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by a party, nor any course of dealing between the parties hereto, shall constitute a waiver of any of such parties' rights or of any obligations of any other party hereto as to any future transactions.

18.06 **Remedies Cumulative.** The remedies of a party hereunder are cumulative and the exercise of any one or more of the remedies provided for herein shall not be construed as a waiver of any other remedies of such party unless specifically so provided herein.

18.07 **Parties in Interest/No Third Party Beneficiaries.** The terms and provisions of this Agreement shall be binding upon and inure to the benefit of, and be enforceable by, the respective successors and permitted assigns of the parties hereto. This Agreement shall not run to the benefit of, or be enforceable by, any person or entity other than a party to this Agreement and its successors and permitted assigns. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right. Nothing contained in this Agreement, nor any act of the City or the Developer, shall be deemed or construed by any of the parties hereto or by third persons, to create any relationship of third party beneficiary, principal, agent, limited or general partnership, joint venture, or any association or relationship involving the City or the Developer.

18.08 **Titles and Headings.** The Article, section and paragraph headings contained herein are for convenience of reference only and are not intended to limit, vary, define or expand the content thereof.

18.09 **Counterparts.** This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, with the same effect as if all parties had signed the same document. All such counterparts shall be deemed an original, shall be construed together and shall constitute one and the same instrument.

18.10 **Severability.** If any provision of this Agreement, or the application thereof, to any person, place or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect only if, after excluding the portion deemed to be unenforceable, the remaining terms shall provide for the consummation of the transactions contemplated hereby in substantially the same manner as originally set forth herein. In

such event, the parties shall negotiate, in good faith, a substitute, valid and enforceable provision or agreement which most nearly affects the parties' intent in entering into this Agreement.

18.11 **Conflict.** In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances, such ordinance(s) shall prevail and control.

18.12 **Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws of the State, without regard to its conflicts of law principles.

18.13 **Form of Documents.** All documents required by this Agreement to be submitted, delivered or furnished to the City shall be in form and content satisfactory to the City.

18.14 **Assignment.** Prior to the issuance by the City to the Developer of a Certificate, the Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City; provided, however, that the Developer may assign, on a collateral basis, the right to receive City Funds hereunder to a financing source providing Lender Financing which has been identified to the City as of the Closing Date. Notwithstanding the issuance of such Certificate, any successor in interest to the Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to Section 8.19 (Real Estate Provisions) and Section 8.23 (Survival of Covenants) hereof, for the Term of the Agreement. The Developer hereby consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

18.15 **Binding Effect.** This Agreement shall be binding upon the Developer, the City and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of the Developer, the City and their respective successors and permitted assigns (as provided herein).

18.16 **Force Majeure.** Neither the City nor the Developer nor any successor in interest to either of them shall be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which **in fact** interferes with the ability of such party to discharge its obligations hereunder. The individual or entity relying on this section with respect to any such delay shall, upon the occurrence of **the event** causing such delay, immediately give written notice to the other parties to this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay effected by any such events described above.

18.17 **Schedules and Exhibits.** All of the schedules and exhibits attached hereto are incorporated herein by reference. Any schedules and exhibits to this Agreement will be construed

to be an integral part of this Agreement to the same extent as if the same has been set forth verbatim herein.

18.18 **Business Economic Support Act.** Pursuant to the Business Economic Support Act (30 ILCS 760/1 et seq. 1996 State Bar Edition, as amended), if the Developer is required to provide notice under the WARN Act, the Developer shall, in addition to the notice required under the WARN Act, provide at the same time a copy of the WARN Act notice to the Governor of the State, the Speaker and Minority Leader of the House of Representatives of the State, the President and Minority Leader of the Senate of State, and the Mayor of each municipality where the Developer has locations in the State. Failure by the Developer to provide such notice as described above may result in the termination of all or a part of the payment or reimbursement obligations of the City set forth herein.

18.19 **Approval.** Wherever this Agreement provides for the approval or consent of the City, DPD or the Commissioner, or any matter is to be to the City's, DPD's or the Commissioner's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City, DPD or the Commissioner in writing and in the reasonable discretion thereof. The Commissioner or other person designated by the Mayor of the City shall act for the City or DPD in making all approvals, consents and determinations of satisfaction, granting the Certificate or otherwise administering this Agreement for the City.

18.20 **Construction of Words.** The use of the singular form of any word herein shall also include the plural, and vice versa. The use of the neuter form of any word herein shall also include the masculine and feminine forms, the masculine form shall include feminine and neuter, and the feminine form shall include masculine and neuter.

18.21 **Survival of Agreements.** Except as otherwise contemplated by this Agreement, all covenants and agreements of the parties contained in this Agreement will survive the consummation of the transactions contemplated hereby.

18.22 **Equitable Relief.** In addition to any other available remedy provided for hereunder, at law or in equity, to the extent that a party fails to comply with the terms of this Agreement, any of the other parties hereto shall be entitled to injunctive relief with respect thereto, without the necessity of posting a bond or other security, the damages for such breach hereby being acknowledged as unascertainable.

18.23 **Venue and Consent to Jurisdiction.** If there is a lawsuit under this Agreement, each party hereto agrees to submit to the jurisdiction of the courts of Cook County, the State of Illinois and the United States District Court for the Northern District of Illinois.

18.24 **Costs and Expenses.** In addition to and not in limitation of the other provisions of this Agreement, Developer agrees to pay upon demand the City's out-of-pocket expenses, including attorneys' fees, incurred in connection with the enforcement of the provisions of this Agreement.

This includes, subject to any limits under applicable law, attorneys' fees and legal expenses, whether or not there is a lawsuit, including attorneys' fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Developer also will pay any court costs, in addition to all other sums provided by law.

18.25 **Returned Funds.** After February 7, 2007, the City may, if required by the Act, distribute any returned funds received hereunder to appropriate authorities for distribution to all applicable taxing districts.

18.26 **AYH as Unconditional Guarantor.** AYH acknowledges and agrees as follows:

(a) AYH is undertaking the unconditional guarantee of each and every of Developer's obligations under this Agreement in support of Developer's activities hereunder. AYH specifically acknowledges the receipt and sufficiency of good and valuable consideration for its guarantee obligations.

(b) AYH's guarantee obligations hereunder are totally without any conditions or qualifications of any kind, nature or description, whether express or implied, and are intended to guarantee to the maximum extent possible at law or in equity the full and satisfactory performance of each and every obligation, covenant, undertaking or payment of Developer hereunder. AYH's unconditional guarantee obligations are intended to be continuing and will not be changed, modified, reduced or released in any way if the Developer and the City enter into any change or amendment or modification to this Agreement. Further, AYH need not expressly assent to any change, amendment or modification to this Agreement.

(c) If an Event of Default occurs, AYH agrees that the City may at any time and from time to time assert any of its rights and remedies under this Agreement against Developer alone, or against Developer and AYH, jointly and severally, or against AYH directly without exhausting all or any remedies against Developer.

(d) AYH specifically agrees to each of the terms in this Agreement including but not limited to, the Governing Law provisions stated in Section 8.12 and the Venue and Consent to Jurisdiction provisions stated in Section 18.23 above.

[The remainder of this page is intentionally left blank and the signature page follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be executed on or as of the day and year first above written.

**AMERICAN YOUTH HOSTELS-CHICAGO, INC., an Illinois not-for-profit Corporation**

ATTEST:

By: \_\_\_\_\_

Its: Vice President and Secretary

By: \_\_\_\_\_

Its: Treasurer

**CITY OF CHICAGO**

By: \_\_\_\_\_

Commissioner,  
Department of Planning and  
Development

**UNCONDITIONAL GUARANTEE**

American Youth Hostels, Inc., a New York not-for-profit corporation, hereby unconditionally guarantees the duties, obligations, performance and payments of American Youth Hostels-Chicago, Inc., an Illinois not-for-profit corporation, whose sole member is American Youth Hostels, Inc., arising from or out of the foregoing Redevelopment Agreement.

**AMERICAN YOUTH HOSTELS, INC., a New York not-for-profit Corporation**

ATTEST:

By: \_\_\_\_\_

Its: Deputy Executive Director and Assistant Secretary

By: \_\_\_\_\_

Its: Director of Finance/Assistant Treasurer

IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be executed on or as of the day and year first above written.

AMERICAN YOUTH HOSTELS-CHICAGO, INC., an Illinois not-for-profit Corporation

ATTEST:

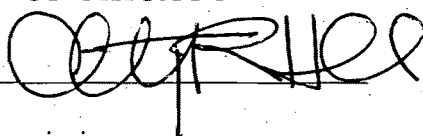
By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

CITY OF CHICAGO

By: 

Commissioner,  
Department of Planning and  
Development

UNCONDITIONAL GUARANTEE

American Youth Hostels, Inc., a New York not-for-profit corporation, hereby unconditionally guarantees the duties, obligations, performance and payments of American Youth Hostels-Chicago, Inc., an Illinois not-for-profit corporation, whose sole member is American Youth Hostels, Inc., arising from or out of the foregoing Redevelopment Agreement.

AMERICAN YOUTH HOSTELS, INC., a New York not-for-profit Corporation

ATTEST:

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

081934087

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

08193408

I, Hilda T. Hoagland, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Russell K. Hedge, Jr. and Annette Hinkle, personally known to me to be the Vice President/Secretary and Treasurer, respectively of American Youth Hostels-Chicago, Inc. an Illinois not-for-profit corporation (the "Corporation") and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed, and delivered said instrument, pursuant to the authority given to them by the Board of Directors of the Corporation as their free and voluntary act and as the free and voluntary act of the Corporation for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 28th day of December, 1998.



Hilda T. Hoagland  
Notary Public

My Commission Expires June 19, 2002

(SEAL)

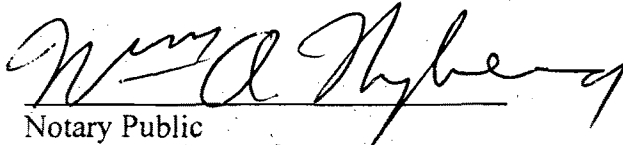


STATE OF ILLINOIS        )  
                                  ) SS  
COUNTY OF COOK         )

08193408

I, William A. Nyberg, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Christopher R. Hill, personally known to me to be the Commissioner of the Department of Planning and Development of the City of Chicago (the "City"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument pursuant to the authority given to him/her by the City, as her free and voluntary act and as the free and voluntary act of the City, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 28th day of December, 1998.

  
Notary Public

My Commission Expires 12/3/00



STATE OF ILLINOIS       )  
                                  ) SS  
COUNTY OF COOK        )

003234087  
08193408

I, Hilda T. Hoagland, a notary public in and for the said County, in the State aforesaid. DO HEREBY CERTIFY that Russell K. Hedge, Jr. and Annette Hinkle, personally known to me to be the Deputy Executive Director/Assistant Secretary and Director of Finance/Assistant Treasurer, respectively of American Youth Hostels, Inc. a New York not-for-profit corporation (the "Corporation") and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed, and delivered said instrument, pursuant to the authority given to them by the Board of Directors of the Corporation as their free and voluntary act and as the free and voluntary act of the Corporation for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 28th day of December, 1998.

Hilda T. Hoagland  
Notary Public



My Commission Expires June 19, 2002

(SEAL)

American Youth Hostels-Chicago, Inc.  
Redevelopment Agreement  
dated as of December 28, 1998

08193408

SCHEDULE A

08193408

Definitions

For purposes of this Agreement, in addition to the terms defined in the Agreement recitals, the following terms have the meanings set forth below:

"**Actual Project Costs**" has the meaning set forth in Section 4.03(b)(i) hereof.

"**Actual Residents of the City**" has the meaning set forth for such phrase in Section 10.02 hereof.

"**Adjusted Budget Amount**" has the meaning set forth in Section 4.03(e) hereof.

"**Affiliate**" means any individual, corporation, partner, partnership, trust or entity which owns or controls, or is owned or controlled, or is under common ownership or control with, in whole or in part, by Developer or any successor to Developer or its respective subsidiary(ies) or parent(s).

"**Available Project Funds**" has the meaning set forth for such phrase in Section 5.16 hereof.

"**Base Amount**" has the meaning set forth for such term in Section 4.01 hereof.

"**Bonds**" has the meaning set forth for such term in the Recitals hereof.

"**Bond Ordinance**" has the meaning set forth in the Recitals hereof.

"**Business Day**" means any day other than Saturday, Sunday or a legal holiday in the State.

"**Certificate**" means the Certificate of Completion of Construction described in Section 7.01 hereof.

"**Change Order**" means any amendment or modification after the Closing Date (as defined below) to the Plans and Specifications or the Project Budget (all as defined below) and described in Section 3.02, Section 3.03 and Section 3.04, respectively.

"**City Contract**" has the meaning set forth in Section 8.01(l) hereof.

"**City Fee**" means the fee described in Section 4.05(b) hereof.

"**City Funds**" means the funds described in Section 4.03(b) hereof.

"**Closing Date**" means the date of execution and delivery of this Agreement by all parties hereto.

"**Commissioner**" shall mean the Commissioner of DPD.

"**Conditional Assistance**" has the meaning set forth in Section 4.01 hereof.

"**Construction Contract**" means that certain contract to be entered into between the Developer and the General Contractor (as defined below) providing for construction of the Project.

"**Corporation Counsel**" means the City's Office of Corporation Counsel.

"**Department**" has the meaning set forth in Section 8.09 hereof.

"**Employer(s)**" has the meaning set forth in Section 10.01 hereof.

"**Environmental Laws**" means any and all Federal, State or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to: (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called "Superfund" or "Superlien" law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902 et seq.); (v) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code of Chicago (as defined below).

"**Equity**" means funds of the Developer (other than funds derived from Lender Financing (as defined below)) irrevocably available for the Project, in the amount set forth in Section 4.01 hereof, which amount may be increased pursuant to Section 4.06 (Cost Overruns).

"**Event of Default**" has the meaning set forth in Section 15.01 hereof.

"**Escrow**" means the construction escrow established pursuant to the Escrow Agreement.

"**Escrow Agreement**" means the Escrow Agreement establishing a construction escrow, by and among the City, the Title Company (or an affiliate of the Title Company), the Developer and

those financing sources providing Lender Financing to the Developer, substantially in the form of Exhibit F hereto.

**"Existing Mortgages"** has the meaning set forth in Section 16.01 hereof.

**"Financial Statements"** means audited financial statements of the Developer as of March 31st of the immediately preceding year (or the end of any other fiscal year subsequently adopted by Developer), prepared by a certified public accountant in accordance with generally accepted accounting principles consistently applied, and certified by the chief financial officer of Developer as fairly and accurately presenting the information contained therein.

**"First Construction Disbursement"** shall mean the first disbursement from the Escrow subsequent to the Closing Date related to construction costs.

**"Full-Time Equivalents"** or **"FT"** means an employee or employees of the Developer (or employees of Operator), as evidenced by payroll records, actually working at the Youth Hostel for an average of at least 32 hours a week.

**"General Contractor"** means the general contractor(s) hired by the Developer pursuant to Section 6.01.

**"Governmental Charge"** has the meaning set forth in Section 8.19 hereof.

**"Hazardous Materials"** means any toxic substance, hazardous substance, hazardous material, hazardous chemical or hazardous, toxic or dangerous waste defined or qualifying as such in (or for the purposes of) any Environmental Law, or any pollutant or contaminant, and shall include, but not be limited to, petroleum (including crude oil), any radioactive material or by-product material, polychlorinated biphenyls and asbestos in any form or condition.

**"Human Rights Ordinance"** has the meaning set forth in Section 10.01 hereof.

**"In Balance"** has the meaning set forth for such phase in Section 5.16 hereof.

**"Indemnitee"** and **"Indemnitees"** has the meanings set forth in Section 13.01 hereof.

**"Incremental Taxes"** means such ad valorem taxes which, pursuant to the TIF Adoption Ordinance and Section 5/11-74.4-8(b) of the Act, are allocated to, and when collected are paid to, the Treasurer of the City for deposit by the Treasurer into the 1997 Central Loop Project Redevelopment Project Area Special Tax Allocation Fund (as defined below) established to pay Redevelopment Project Costs (as defined below) and obligations incurred in the payment thereof.

**"Lender Financing"** means funds borrowed by the Developer from lenders relating to the sale of tax-exempt bonds and the use of the sale proceeds for the Project, and irrevocably available to pay for costs of the Project, in the amount set forth in Section 4.01 hereof.

**"MBE(s)"** means a business identified in the Directory of Certified Minority Business Enterprises published by the City's Purchasing Department, or otherwise certified by the City's Purchasing Department as a minority-owned business enterprise.

**"MBE/WBE Budget"** means the budget attached hereto as Exhibit H-2.

**"MBE/WBE Program"** has the meaning set forth in Section 10.03 hereof.

**"MOPD"** means the Mayor's Office for People with Disabilities as set forth in Section 3.14.

**"Municipal Code"** means the Municipal Code of the City of Chicago as presently in effect and as hereafter amended from time-to-time.

**"New Bonds"** has the meaning set forth in Section 8.05 hereof.

**"New Mortgage"** has the meaning set forth in Section 16.01 hereof.

**"1997 Central Loop Project Redevelopment Project Area Special Tax Allocation Fund"** means the special tax allocation fund created by the City into which the Incremental Taxes will be deposited.

**"Non-Governmental Charges"** means all non-governmental charges, liens, claims, or encumbrances relating to the Developer, the Property or the Project.

**"Permitted Liens"** means those liens and encumbrances against the Property and/or the Project set forth on Exhibit G hereto.

**"Permitted Mortgage"** has the meaning set forth in Section 16.01 hereof.

**"Plans and Specifications"** means (i) Project schematics; (ii) design/development drawings; (iii) construction drawings and specifications (which include acoustical specifications for windows); (iv) landscaping plans; (v) permanent sign age plans; and (vi) all related Change Orders to the foregoing.

**"Prior Expenditure(s)"** has the meaning set forth in Section 4.05(a) hereof.

**"Project Budget"** means the budget attached hereto as Exhibit H-1, showing the total cost of the Project by line item, as furnished by the Developer to DPD, in accordance with Section 3.03 hereof.

**"Property Tax Contingency"** has the meaning set forth in Section 4.01 hereof.

08193408

**"Public Benefits Program"** has the meaning set forth in Section 8.20 hereof.

**"Redevelopment Project Costs"** means redevelopment project costs as defined in Section 5/11-74.4-3(q) of the Act, as the same may be amended from time to time, that are included in the budget set forth in the Redevelopment Plan or otherwise referenced in the Redevelopment Plan.

**"Repayment Obligation"** has the meaning set forth in Section 5.17 hereof.

**"Survey"** means a Class A plat of survey in the most recently revised form of ALTA/ACSM land title survey of the Property dated within 45 days of the Closing Date, acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and any updates thereof to reflect improvements to the Property in connection with the redevelopment of the Building and related improvements as required by the City or any financing source providing Lender Financing).

**"Term of the Agreement"** means the period of time commencing on the Closing Date and ending on the later to occur of: (a) the tenth anniversary of the issuance of a Certificate; or (b) the date on which the Developer has repaid all amounts pursuant to Section 4.03 hereof, but in any case not to extend beyond 15 years from the Closing Date.

**"TIF-Funded Improvements"** means those improvements of the Project which: (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Redevelopment Plan and (iii) the City has agreed to pay for out of City Funds, subject to the terms of this Agreement.

**"Title Company"** means Chicago Title Insurance Company.

**"Title Policy"** means a title insurance policy in the most recently revised ALTA or equivalent form, issued by the Title Company, showing the Developer as fee owner of the Property, noting the recording of this Agreement as an encumbrance against the Property, and a subordination agreement in favor of the City with respect to previously recorded liens against the Property related to Lender Financing, if any.

**"WARN Act"** means the Worker Adjustment and Retraining Notification Act (29 U.S.C. Section 2101 et seq.).

**"WBE(s)"** means a business identified in the Directory of Certified Women Business Enterprises published by the City's Purchasing Department, or otherwise certified by the City's Purchasing Department as a women-owned business enterprise.

American Youth Hostels-Chicago, Inc.  
Redevelopment Agreement  
dated as of December 28, 1998

08193408  
08193408

EXHIBIT A

08193408

**REDEVELOPMENT AREA LEGAL DESCRIPTION**

A true and correct copy of the legal description of the Central Loop Redevelopment Project Area as of the Closing Date is attached to this exhibit cover sheet.



Exhibit A-1

08193408

II.  
REDEVELOPMENT PROJECT AREA LEGAL DESCRIPTION

08193408

Boundaries of the North Loop Tax Increment Redevelopment Project Area are shown on the Boundary Map, Exhibit 1. The legal description of the Redevelopment Project Area is as follows:

A tract of land consisting of Lots and Blocks or parts thereof and streets and alleys of Blocks 16, 17, 35, 36, 37 and 58 in the Original Town of Chicago in the East part of the S.E. 1/4 of Section 9 Township 39 North, Range 14 and part of Blocks 8 and 9 in the Fort Dearborn Addition to Chicago in the S.W. Fractional 1/4 of Section 10, Township North, Range 14 East of the Third Principal Meridian, in the City of Chicago, County of Cook, State of Illinois and;

Bounded as follows: Beginning at the intersection of the south line of West Lake Street and the west line of North LaSalle Street; thence North along the west line of North LaSalle Street to the north line extended west of West Haddock Place; thence east along said line to the west line of North Clark Street; thence north along said west line to the northerly line of West Wacker Drive as said northerly line was established by Ordinance passed by the City Council of the City of Chicago on December 15, 1919; thence east along said northerly line of West Wacker Drive to the east line of North State Street; thence south along said east line to the north line of Haddock Place; thence east along said line to the east line of Lot 28 extended north of Block 8 in Fort Dearborn Addition to Chicago as aforesaid; thence south along the east line of Lot 28 as aforesaid to the north line of East Lake Street; thence east along said north line to the east line of Lot 10 extended north of Block 9 in Fort Dearborn Addition to Chicago as aforesaid; thence south along the east line of Lot 10 as aforesaid to the north line of East Benton Place; thence east along said north line to east line of North Wabash Avenue; thence south along said line to the south line of East Randolph Street; thence west along said south line to the east line of North State Street; thence south along said east line to the south line extended east of Lot 1 of Assessor's Re-Subdivision of Lots One to Five in Block 58 in Assessor's Division of Original Town of Chicago as aforesaid; thence west along said extended line to the west line of said Lot 1; thence north along said line to the south line of West Washington Street; thence west along said south line to the west line of North Dearborn Street; thence north along said west line to the south line of West Randolph Street; thence west along said south line to the west line of North Clark Street; thence north along said west line to the south line of West Lake Street; thence west along said south line to the place of beginning.

The boundaries of the Added Project Area are legally described as follows:

08193408

Subarea 1

A TRACT OF LAND COMPRISED OF ALL OR PARTS OF BLOCKS 19, 20, 31, 32, 33, 40 AND 41 IN THE ORIGINAL TOWN OF CHICAGO, TOGETHER WITH PARTS OF STREETS AND ALLEYS ADJOINING SAID BLOCKS, IN THE SOUTH HALF OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, WHICH TRACT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WEST LINE OF NORTH LaSALLE STREET AS WIDENED WITH THE NORTH LINE OF BLOCK 33;

THENCE WEST ALONG SAID NORTH LINE (BEING ALSO THE SOUTH LINE OF WEST LAKE STREET) TO THE WEST LINE OF SAID BLOCK;

THENCE SOUTH ALONG SAID WEST LINE (BEING ALSO THE EAST LINE OF NORTH WELLS STREET) TO THE NORTH LINE OF WEST COUCH PLACE;

THENCE EAST ALONG SAID NORTH LINE TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE WEST LINE OF LOT 7 IN BLOCK 33;

THENCE SOUTH ALONG SAID EXTENSION, AND ALONG SAID WEST LINE, TO THE SOUTH LINE OF SAID BLOCK;

THENCE EAST ALONG SAID SOUTH LINE (BEING ALSO THE NORTH LINE OF WEST RANDOLPH STREET) AND ALONG THE EASTWARD EXTENSION OF SAID SOUTH LINE, TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE WEST LINE OF BLOCK 39 IN ORIGINAL TOWN OF CHICAGO;

THENCE SOUTH ALONG SAID EXTENSION, AND ALONG SAID WEST LINE (BEING ALSO THE EAST LINE OF NORTH LaSALLE STREET) TO AN INTERSECTION WITH THE EASTWARD EXTENSION OF THE SOUTH LINE OF WEST COURT PLACE;

THENCE WEST ALONG SAID EXTENSION AND ALONG SAID SOUTH LINE TO THE WEST LINE OF BLOCK 40 AFORESAID;

THENCE WEST, CROSSING NORTH WELLS STREET, TO THE NORTHEAST CORNER OF LOT 8 IN BLOCK 41 AFORESAID;

THENCE WEST ALONG THE NORTH LINE OF SAID LOT TO AN INTERSECTION WITH THE SOUTHWARD EXTENSION OF THE WEST LINE OF LOT 1 IN SAID BLOCK;

THENCE NORTH ALONG SAID EXTENSION AND ALONG SAID WEST LINE, TO THE NORTH LINE OF BLOCK 41;

THENCE WEST ALONG SAID NORTH LINE (BEING ALSO THE SOUTH LINE OF WEST RANDOLPH STREET) TO THE NORTHWEST CORNER OF SAID BLOCK;

THENCE WEST, CROSSING NORTH FRANKLIN STREET, TO THE NORTHEAST CORNER OF BLOCK 42 IN ORIGINAL TOWN OF CHICAGO;

THENCE WEST ALONG THE NORTH LINE OF SAID BLOCK 1 (BEING ALSO THE SOUTH LINE OF WEST RANDOLPH STREET) TO AN INTERSECTION WITH THE SOUTHWARD EXTENSION OF THE WEST LINE OF THE EAST 20 FEET OF LOT 7 IN BLOCK 31 AFORESAID;

THENCE NORTH ALONG SAID EXTENSION AND ALONG SAID WEST LINE, TO THE NORTH LINE OF WEST COUCH PLACE;

98185692

THENCE EAST ALONG SAID NORTH LINE TO THE EAST LINE OF BLOCK 14  
THENCE NORTH ALONG SAID EAST LINE (BEING ALSO THE WEST LINE OF  
NORTH FRANKLIN STREET) AND ALONG THE NORTHWARD EXTENSION OF SAID  
EAST LINE TO AN INTERSECTION WITH THE WESTWARD EXTENSION OF THE  
SOUTH LINE OF BLOCK 20 AFORESAID;

THENCE EAST ALONG SAID EXTENSION, AND ALONG SAID SOUTH LINE  
(BEING ALSO THE NORTH LINE OF WEST LAKE STREET) TO THE WEST LINE OF  
NORTH POST PLACE;

THENCE NORTH ALONG SAID WEST LINE AND ALONG THE NORTHWARD  
EXTENSION THEREOF, TO AN INTERSECTION WITH THE WESTWARD EXTENSION  
OF THE NORTH LINE OF WEST HADDOCK PLACE;

THENCE EAST ALONG SAID EXTENSION AND ALONG SAID NORTH LINE TO  
THE EAST LINE OF BLOCK 20;

THENCE EAST, CROSSING NORTH WELLS STREET, TO THE INTERSECTION OF  
THE WEST LINE OF BLOCK 19 AFORESAID WITH THE NORTH LINE OF WEST  
HADDOCK PLACE;

THENCE EAST ALONG SAID NORTH LINE TO AN INTERSECTION WITH THE  
WEST LINE OF NORTH LaSALLE STREET AS WIDENED;

THENCE SOUTH ALONG SAID WEST LINE TO THE SOUTH LINE OF BLOCK 19;

THENCE SOUTH, CROSSING WEST LAKE STREET, TO THE POINT OF  
BEGINNING;

IN THE CITY OF CHICAGO, COOK COUNTY, ILLINOIS.

Subarea 2

A TRACT OF LAND COMPRISED OF PART OF BLOCK 58 AND PARTS OF  
ADJACENT STREETS AND ALLEYS IN THE ORIGINAL TOWN OF CHICAGO IN  
SECTION 9, TOGETHER WITH ALL OR PARTS OF BLOCKS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,  
12, 14 AND 15 AND PARTS OF ADJACENT STREETS AND ALLEYS IN FORT DEARBORN  
ADDITION TO CHICAGO IN SECTION 10, AND ALL OR PARTS OF BLOCKS 1 THRU 10,  
AND ALL OR PARTS OF BLOCKS 1 THRU 10 INCLUSIVE AND PARTS OF ADJACENT  
STREETS AND ALLEYS IN FRACTIONAL SECTION 15 ADDITION TO CHICAGO, AND  
ALL OR PARTS OF BLOCKS 113, 114, 120, 122, 123, 124, 137, 138, 139, 140, 141 AND 142 IN  
SCHOOL SECTION ADDITION TO CHICAGO, ALL IN TOWNSHIP 39 NORTH, RANGE 14  
EAST OF THE THIRD PRINCIPAL MERIDIAN, WHICH TRACT OF LAND IS MORE  
PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF BLOCK 8 IN FORT DEARBORN  
ADDITION TO CHICAGO IN SECTION 10 AFORESAID;

THENCE EAST ALONG THE NORTH LINE OF SAID BLOCK (BEING ALSO THE  
SOUTH LINE OF EAST WACKER DRIVE) TO THE NORTHEAST CORNER OF LOT 6 IN  
SAID BLOCK;

THENCE SOUTH ALONG THE EAST LINE OF SAID LOT TO THE NORTH LINE  
OF EAST HADDOCK PLACE;

99187692

THENCE WEST ALONG SAID NORTH LINE TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE EAST LINE OF LOT 28 IN BLOCK 8;

THENCE SOUTH ALONG SAID EXTENSION, AND ALONG SAID EAST LINE, TO THE SOUTH LINE OF SAID BLOCK;

THENCE EAST ALONG SAID SOUTH LINE (BEING ALSO THE NORTH LINE OF EAST LAKE STREET) TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE EAST LINE OF LOT 10 IN BLOCK 9 OF FORT DEARBORN ADDITION TO CHICAGO;

THENCE SOUTH ALONG SAID EXTENSION, AND ALONG SAID EAST LINE TO THE NORTH LINE OF EAST BENTON PLACE;

THENCE EAST ALONG SAID NORTH LINE, AND ALONG THE EASTWARD EXTENSION THEREOF, TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE WEST LINE OF THE SOUTH PART OF BLOCK 10 IN FORT DEARBORN ADDITION TO CHICAGO;

THENCE SOUTH ALONG SAID EXTENSION, AND ALONG SAID WEST LINE (BEING ALSO THE EAST LINE OF NORTH WABASH AVENUE) AND ALONG THE SOUTHWARD EXTENSION THEREOF, TO AN INTERSECTION WITH THE EASTWARD EXTENSION OF THE NORTH LINE OF BLOCK 13 IN SAID FORT DEARBORN ADDITION;

THENCE WEST ALONG SAID EXTENSION TO THE NORTHEAST CORNER OF SAID BLOCK 13;

THENCE SOUTH ALONG THE EAST LINE OF SAID BLOCK (BEING ALSO THE WEST LINE OF NORTH WABASH AVENUE) TO THE SOUTHEAST CORNER OF SAID BLOCK;

THENCE WEST ALONG THE SOUTH LINE OF SAID BLOCK (BEING ALSO THE NORTH LINE OF EAST WASHINGTON STREET) TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE WEST LINE OF BLOCK 14 IN FORT DEARBORN ADDITION;

THENCE SOUTH ALONG SAID EXTENSION, AND ALONG SAID WEST LINE (BEING ALSO THE EAST LINE OF NORTH STATE STREET) TO AN INTERSECTION WITH THE EASTWARD EXTENSION OF THE SOUTH LINE OF LOT 1 IN ASSESSOR'S RESUBDIVISION OF SUB-LOTS 1 TO 5 OF ASSESSOR'S DIVISION OF LOTS 1, 2, 3, 4 AND 5 OF BLOCK 58 IN ORIGINAL TOWN OF CHICAGO AFORESAID;

THENCE WEST ALONG SAID EXTENSION, CROSSING NORTH STATE STREET AND ENTERING SECTION 9 AFORESAID, AND CONTINUING ALONG SAID SOUTH LINE OF SAID LOT 1, TO THE SOUTHWEST CORNER OF SAID LOT;

THENCE NORTH ALONG THE WEST LINE OF SAID LOT TO THE NORTH LINE OF BLOCK 58;

THENCE WEST ALONG SAID NORTH LINE (BEING ALSO THE SOUTH LINE OF WEST WASHINGTON STREET) TO THE NORTHWEST CORNER OF LOT 7 IN ASSESSOR'S DIVISION OF LOTS 1, 2, 3, 4 AND 5 OF BLOCK 58;

THENCE SOUTH ALONG THE WEST LINE OF SAID LOT TO THE NORTH LINE OF WEST CALHOUN PLACE;

THENCE WEST ALONG SAID NORTH LINE, AND ALONG THE WESTWARD EXTENSION THEREOF, TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE EAST LINE OF THE SOUTH PART OF BLOCK 57 IN ORIGINAL TOWN OF CHICAGO AFORESAID;

THENCE SOUTH ALONG SAID EXTENSION AND ALONG SAID EAST LINE (BEING ALSO THE WEST LINE OF NORTH DEARBORN STREET) AND ALONG THE SOUTHWARD EXTENSION OF SAID EAST LINE TO THE SOUTHEAST CORNER OF SAID BLOCK 57;

THENCE SOUTHWARD, CROSSING WEST MADISON STREET AND ENTERING SECTION 16, TO THE NORTHEAST CORNER OF BLOCK 119 IN SCHOOL SECTION ADDITION AFORESAID;

THENCE SOUTH ALONG THE EAST LINE OF SAID BLOCK (BEING ALSO THE WEST LINE OF SOUTH DEARBORN STREET) TO AN INTERSECTION WITH THE WESTWARD EXTENSION OF THE NORTH LINE OF LOT 20 IN THE SUBDIVISION OF BLOCK 142 IN SAID SCHOOL SECTION ADDITION;

THENCE EAST ALONG SAID EXTENSION, AND ALONG SAID NORTH LINE, TO THE NORTHEAST CORNER OF SAID LOT;

THENCE SOUTH ALONG THE EAST LINE OF LOTS 20 THRU 27 INCLUSIVE IN SAID SUBDIVISION, AND ALONG THE SOUTHWARD EXTENSION THEREOF, TO AN INTERSECTION WITH THE NORTH LINE OF BLOCK 141 IN SCHOOL SECTION SUBDIVISION AFORESAID;

THENCE EAST ALONG SAID NORTH LINE (BEING ALSO THE SOUTH LINE OF WEST MONROE STREET) TO THE NORTHWEST CORNER OF THE EAST HALF OF LOT 3 IN SAID BLOCK 141;

THENCE SOUTH ALONG THE WEST LINE OF THE EAST HALF OF SAID LOT TO THE NORTH LINE OF WEST MARBLE (HYDRAULIC) PLACE;

THENCE WEST ALONG SAID NORTH LINE, AND THE WESTWARD EXTENSION THEREOF, TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE EAST LINE OF LOT 20 IN COUNTY CLERK'S DIVISION OF BLOCK 120 IN SCHOOL SECTION ADDITION;

THENCE SOUTH ALONG SAID EXTENSION, AND ALONG SAID EAST LINE (BEING ALSO THE WEST LINE OF SOUTH DEARBORN STREET) AND ALONG THE SOUTHWARD EXTENSION OF SAID EAST LINE, TO AN INTERSECTION WITH THE WESTWARD EXTENSION OF THE NORTH LINE OF BLOCK 140 IN SCHOOL SECTION ADDITION;

THENCE EAST ALONG SAID EXTENSION AND ALONG SAID NORTH LINE (BEING ALSO THE SOUTH LINE OF WEST ADAMS STREET) TO AN INTERSECTION WITH THE WEST LINE OF THE EAST 25 FEET OF LOT 5 IN THE SUBDIVISION OF BLOCKS 83, 92 AND 140 IN SCHOOL SECTION ADDITION;

THENCE SOUTH ALONG SAID WEST LINE TO AN INTERSECTION WITH THE WESTWARD EXTENSION OF THE SOUTH LINE OF THE ALLEY IN THE SUBDIVISION OF LOTS 3 AND 4 IN SAID BLOCK 140;

THENCE EAST ALONG SAID EXTENSION AND ALONG SAID SOUTH LINE TO AN ANGLE POINT;

THENCE SOUTHEASTWARDLY ALONG A SOUTHWESTERLY LINE OF SAID ALLEY TO AN ANGLE POINT;

THENCE SOUTH ALONG A WEST LINE OF SAID ALLEY AND ALONG THE SOUTHWARD EXTENSION THEREOF, TO AN INTERSECTION WITH THE NORTH LINE OF LOT 13 IN THE AFOREMENTIONED SUBDIVISION OF BLOCKS 83, 92 AND 140;

THENCE EAST ALONG SAID NORTH LINE (BEING ALSO THE SOUTH LINE OF WEST QUINCY STREET) TO THE NORTHEAST CORNER OF SAID LOT 13;

THENCE SOUTH ALONG THE EAST LINE OF SAID LOT TO THE SOUTH LINE OF BLOCK 140;

THENCE WEST ALONG SAID SOUTH LINE (BEING ALSO THE NORTH LINE OF WEST JACKSON BOULEVARD) AND ALONG THE WESTWARD EXTENSION THEREOF, TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE EAST LINE OF LOTS 1, 4, 8, 11, 14, 17, 20 AND 23 IN WRIGHT'S SUBDIVISION OF BLOCK 122 IN SCHOOL SECTION ADDITION;

THENCE SOUTH ALONG SAID EXTENSION, AND ALONG SAID EAST LINE (BEING ALSO THE WEST LINE OF SOUTH FEDERAL STREET) TO THE SOUTHEAST CORNER OF SAID LOT 23;

THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 23 AND THE WESTWARD EXTENSION THEREOF, AND ALONG THE SOUTH LINE OF LOT 22 IN WRIGHT'S SUBDIVISION (BEING ALSO THE NORTH LINE OF WEST VAN BUREN STREET) TO THE SOUTHWEST CORNER OF SAID LOT 22;

THENCE WEST, CROSSING SOUTH CLARK STREET, TO THE SOUTHEAST CORNER OF LOT 22 IN THE SUBDIVISION OF BLOCK 115 OF SCHOOL SECTION ADDITION AFORESAID;

THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 22 AND LOT 23 (BEING ALSO THE NORTH LINE OF WEST VAN BUREN STREET) TO THE SOUTHWEST CORNER OF SAID LOT 23;

THENCE WEST, CROSSING SOUTH LaSALLE STREET, TO THE SOUTHEAST CORNER OF THAT PART OF SAID STREET VACATED BY ORDINANCE PASSED FEBRUARY 29, 1980, AND RECORDED AUGUST 12, 1980, AS DOCUMENT NUMBER 25545766;

THENCE SOUTH ALONG THE SOUTHWARD EXTENSION OF THE EAST LINE OF SAID VACATION TO AN INTERSECTION WITH THE NORTH LINE OF LOT 3 IN THE SUBDIVISION OF BLOCK 114 OF SCHOOL SECTION ADDITION;

THENCE EAST ALONG SAID NORTH LINE (BEING ALSO THE SOUTH LINE OF WEST VAN BUREN STREET) TO THE NORTHEAST CORNER OF SAID LOT;

THENCE SOUTH ALONG THE EAST LINE OF LOTS 3, 4, 9, 10, 15, 16, 21 AND 22 (BEING ALSO THE WEST LINE OF SOUTH LaSALLE STREET) TO THE SOUTHEAST CORNER OF SAID LOT 22;

THENCE SOUTH, CROSSING WEST CONGRESS PARKWAY AS SAID EXPRESSWAY IS DEFINED BY THE GENERAL ORDINANCE PASSED OCTOBER 31, 1940, TO THE INTERSECTION OF THE EAST LINE OF LOT 6 IN T.G. WRIGHT'S SUBDIVISION OF BLOCK 113 IN SCHOOL SECTION ADDITION WITH THE SOUTH LINE OF SAID WEST CONGRESS PARKWAY;

99185692

THENCE EAST ALONG SAID SOUTH LINE TO AN INTERSECTION WITH THE EAST LINE OF LOT 9 (SAID EAST LINE BEING ALSO THE WEST LINE OF SOUTH PLYMOUTH COURT) IN C.L. AND I. HARMON'S SUBDIVISION OF BLOCK 137 IN SCHOOL SECTION ADDITION;

THENCE NORTH, CROSSING WEST CONGRESS PARKWAY, TO THE INTERSECTION OF THE EAST LINE OF LOT 24 IN T.G. WRIGHT'S SUBDIVISION OF BLOCK 138 IN SCHOOL SECTION ADDITION WITH THE NORTH LINE OF SAID EXPRESSWAY;

THENCE EAST ALONG THE NORTH LINE OF SAID WEST CONGRESS PARKWAY, AND ALONG THE NORTH LINE OF EAST CONGRESS PARKWAY, ENTERING INTO SECTION 15 AFORESAID, TO AN INTERSECTION WITH THE WEST LINE OF SUB-LOT 2 OF LOT 10 IN CANAL TRUSTEE'S SUBDIVISION OF BLOCK 10 OF FRACTIONAL SECTION 15 ADDITION TO CHICAGO;

THENCE SOUTH ALONG SAID WEST LINE TO SAID NORTH LINE OF EAST CONGRESS PARKWAY;

THENCE EAST ALONG SAID NORTH LINE TO THE EAST LINE OF SOUTH MICHIGAN AVENUE AS WIDENED;

THENCE NORTH ALONG SAID WIDENED LINE, ENTERING SECTION 10 AFORESAID, TO AN INTERSECTION WITH THE NORTH LINE OF BLOCK 6 IN FORT DEARBORN ADDITION AFORESAID;

THENCE EAST ALONG SAID NORTH LINE (BEING ALSO THE SOUTH LINE OF EAST SOUTH WATER STREET) TO AN INTERSECTION WITH THE SOUTHWARD EXTENSION OF THE EAST LINE OF LOT 6 IN DYER'S SUBDIVISION OF LOTS 6, 7, 8, 9, 10 AND 11 IN BLOCK 5 OF FORT DEARBORN ADDITION TO CHICAGO;

THENCE NORTH ALONG SAID EXTENSION, AND ALONG SAID EAST LINE, TO THE NORTHEAST CORNER OF SAID LOT;

THENCE NORTH, CROSSING A 20 FOOT WIDE ALLEY, TO A POINT ON THE SOUTH LINE OF LOT 11 IN DYER'S SUBDIVISION WHICH IS 124.00 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT;

THENCE NORTH ALONG A LINE 124.00 FEET EAST FROM, AND PARALLEL WITH, THE WEST LINE OF AFOREMENTIONED BLOCK 5, TO AN INTERSECTION WITH THE SOUTH LINE OF LOT 5 IN SAID BLOCK;

THENCE NORTH TO A POINT ON THE NORTH LINE OF LOT 1 IN SAID BLOCK WHICH IS 121.18 FEET EAST FROM THE NORTHWEST CORNER OF SAID LOT;

THENCE CONTINUING NORTH ALONG A NORTHWARD EXTENSION OF THE LAST DESCRIBED LINE TO AN INTERSECTION WITH THE NORTHERLY LINE OF EAST WACKER DRIVE (RIVER STREET) AS WIDENED;

THENCE WESTWARDLY, SOUTHWESTWARDLY, NORTH AND SOUTHWESTWARDLY ALONG SAID NORTHERLY LINE, AND ALONG THE SOUTHERLY DOCK LINE OF THE CHICAGO RIVER TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF THE WEST LINE OF BLOCK 8 OF FORT DEARBORN ADDITION AFORESAID;

THENCE SOUTH ALONG SAID EXTENSION TO THE POINT OF BEGINNING;  
EXCEPTING FROM THE ABOVE DESCRIBED TRACT LOTS 19 THRU 25, INCLUSIVE, IN BLOCK 10 IN FORT DEARBORN ADDITION TO CHICAGO;  
IN THE CITY OF CHICAGO, COOK COUNTY, ILLINOIS.

~~08193408~~  
08193407  
08193408

**American Youth Hostels-Chicago, Inc.  
Redevelopment Agreement  
dated as of December 28, 1998**

**EXHIBIT B**

**LEGAL DESCRIPTION OF PROPERTY ACQUIRED**

PARCEL 1:

THE SOUTH 25.28 FEET OF LOT 8 AND LOT 9 (EXCEPT THE SOUTH 16.5 FEET THEREOF) AND EXCEPT THE WEST 10 FEET OF SAID LOTS TAKEN FOR ALLEY, IN BLOCK 10 IN FRACTIONAL SECTION 15 ADDITION TO CHICAGO IN FRACTIONAL SECTION 15, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

The address of the property is:       24 East Congress Parkway  
Chicago, Illinois 60605

PIN:                                       17-15-108-011-0000



American Youth Hostels-Chicago, Inc.  
Redevelopment Agreement  
dated as of December 28, 1998

08193408

08193408

EXHIBIT C

**TIF-FUNDED IMPROVEMENTS**

<u>Line Item</u>	<u>Cost (\$000)</u>
Acquisition	\$2,900
Rehabilitation/Reconstruction	8,004
Other Eligible Activities under the Act:	
a. Architect and Engineering	625
b. Legal Fees	100
c. Closing Costs	86
d. Planning / Other Consultants	42
	<hr/>
TOTAL	\$11,757*

\*From the sum of the TIF-eligible improvement categories listed above, the City of Chicago will only fund to American Youth Hostels-Chicago, Inc., up to a maximum amount of \$3,530,000 of TIF-Funded Improvements subject to the terms and conditions set forth in this Agreement.

American Youth Hostels-Chicago, Inc.  
Redevelopment Agreement  
dated as of December 28, 1998

08193408

EXHIBIT E

08193408

**PROHIBITED USES**

1. Class C†† office building, except as incidental to permitted retail or commercial users.
2. Funeral homes.
3. Production, manufacturing and/or industrial use.
4. "Head shop," pornographic "adult" bookstores or tattoo parlors.
5. Car washes, gasoline or service stations, or the display, repair, lease, rent or sale of any motor vehicle, boat or trailer.
6. Any business with drive-up or drive-through lanes.
7. Any use which is a public nuisance or which utilize hazardous materials for its primary business.
8. Thrift stores or flea markets, excluding auction rooms, art or antique stores, or establishments selling books on a consignment basis.
9. Nursing Homes\* or Rest Home.\*
10. Single Room Occupancy Building\* or budget Motel,\* specifically excluding a tourist Home\* or hostel.

\*As such term is defined in the City of Chicago Zoning Ordinance (Art. 3 of Title 17 of the Municipal Code of Chicago) on the application date of the building permit.

†† For purposes of this Section, the term "Class C" shall mean the classification known as "Class C" established by the Building Owners and Managers Association International ("BOMA") and defined as buildings competing for tenants requiring functional space at rents below the average for the geographic area in which the building is located. If the dispute arises as to whether the building is classified as "Class C", each party shall select a qualified real estate appraiser, who shall be independent, familiar with rental values in the immediate geographic area of the property, experienced in making real estate appraisals of the property of this type, of good business reputation, and a MAI member (a "Qualified Appraiser(s)"), to determine the classification of the building according to BOMA classifications. If the Qualified Appraisers selected by each party mutually agree as to the classification of the building, their decision shall be final. If the Qualified Appraisers for each party cannot mutually agree on the classification of the building, each party's respective Qualified Appraiser shall select a third Qualified Appraiser whose decision as to the classification of the building shall be final.

**American Youth Hostels-Chicago, Inc.  
Redevelopment Agreement  
dated as of December 28, 1998**

08193408

**EXHIBIT G**

**PERMITTED LIENS**

1. Liens or encumbrances against the Property:

Those matters set forth as Schedule B title exceptions in the owner's title insurance policy issued by the Title Company as of the date hereof, but only so long as applicable title endorsements issued in conjunction therewith on the date hereof, if any, continue to remain in full force and effect.

2. Liens subordinate to the City, and liens in favor of lenders providing Lender Financing.

**American Youth Hostels-Chicago, Inc.  
Redevelopment Agreement  
dated as of December 28, 1998**

~~08193408~~

08193408

**EXHIBIT H-1**

**PROJECT BUDGET**

A Project Budget dated December 10, 1998 is attached to this exhibit cover sheet.

**AMERICAN YOUTH HOSTELS  
PROJECT BUDGET**

Revised December 10, 1998

08193408

08193408

<b>SOURCES</b>			
Equity	\$1,970,000		14%
Tax Exempt Bonds	\$8,500,000		61%
TIF Assistance: Base Amount	\$2,250,000		16%
Property Tax Contingency	\$1,000,000		7%
Conditional Subsidy	\$280,000		2%
<b>TOTAL USES:</b>	<b>\$14,000,000</b>		<b>100%</b>

<b>USES</b>			
<b>Acquisition</b>	<b>\$2,900,000</b>		<b>21%</b>
<b>Hard Costs:</b>			
Flooring	\$356,000		3%
Concrete	\$250,000		2%
Demolition/Abatement	\$439,000		3%
Electrical	\$795,000		6%
Fire Protection	\$384,000		3%
Drywall	\$894,000		6%
Plumbing	\$836,000		6%
HVAC	\$1,437,000		10%
Elevator	\$120,000		1%
Masonry	\$131,000		1%
Painting	\$289,000		2%
Metals	\$111,000		1%
Windows	\$454,000		3%
Equipment/Millwork	\$134,000		1%
Construction Contingency	\$724,000		5%

General Conditions	\$309,000		2%
Overhead and Fee	\$341,000		2%
<b>Total Hard Costs</b>		<b>\$8,004,000</b>	<b>57%</b>
<b>Soft Costs:</b>			
Architect and Engineering	\$625,000		4%
Furnishings and Equipment	\$350,000		3%
Construction-period Interest	\$265,000		2%
Fund Raising/Public Relations/Marketing	\$250,000		2%
Project Management	\$250,000		2%
Construction-period Insurance, Taxes, Utilities	\$245,000		2%
Financing Costs	\$200,000		1%
Legal Fees	\$100,000		1%
Closing Costs	\$86,000		1%
Planning/Other Consultants	\$42,000		0%
Soft Cost Contingency	\$83,000		1%
<b>Total Soft Costs</b>		<b>\$2,496,000</b>	<b>18%</b>
Operation Reserve Fund	\$600,000		4%
<b>TOTAL USES</b>	<b>\$14,000,000</b>		<b>100%</b>